



COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

COUNCIL MEMBERS

Dennis Kennedy, Mayor
Steve Tate, Mayor Pro Tempore
Larry Carr, Council Member
Mark Grzan, Council Member
Greg Sellers, Council Member

REDEVELOPMENT AGENCY

Dennis Kennedy, Chair
Steve Tate, Vice-Chair
Larry Carr, Agency Member
Mark Grzan, Agency Member
Greg Sellers, Agency Member

WEDNESDAY, NOVEMBER 2, 2005

AGENDA

JOINT MEETING

CITY COUNCIL SPECIAL AND REGULAR MEETING

and

REDEVELOPMENT AGENCY SPECIAL MEETING

6:00 P.M.

A Special Meeting of the City Council and Redevelopment Agency is Called at 6:00 P.M. for the Purpose of Conducting Closed Sessions; and a Special Redevelopment Agency Meeting is called at 7:00 P.M. for Conducting Redevelopment Agency Business.

Dennis Kennedy, Mayor/Chairman

CALL TO ORDER

(Mayor/Chairperson Kennedy)

ROLL CALL ATTENDANCE

(City Clerk/Agency Secretary Torrez)

DECLARATION OF POSTING OF AGENDA

Per Government Code 54954.2

(City Clerk/Agency Secretary Torrez)

6:00 P.M.

City Council Action and Redevelopment Agency Action

CLOSED SESSION:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Government Code Sections 54956.9(b) & (c)
Number of Potential Cases: 3

2.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority: Government Code Section 54956.9(a)
Case Name: Berkman v. City of Morgan Hill et al.
Case Number: Santa Clara County Superior Court, 1-04-CV-031021
Attendees: John Flegel

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

RECONVENE

CLOSED SESSION ANNOUNCEMENT

7:00 P.M.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

CITY COUNCIL REPORT

Council Member Sellers

CITY COUNCIL SUB-COMMITTEE REPORTS

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

PUBLIC COMMENT

NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.
(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME
THE ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND
PRESENT IT TO THE CITY CLERK.**

(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE
CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY
COUNCIL/REDEVELOPMENT AGENCY.**

City Council Action

CONSENT CALENDAR:

ITEMS 1-12 The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

Time Estimate

Page

Consent Calendar: 1 - 10 Minutes

1. **RE-BUDGETING 2004-2005 PROJECTS/PROGRAMS**.....6
Recommended Action(s): Approve the Re-Budgeting of 2004-2005 Project/Program Costs in the 2005-2006 Budget.
2. **APPROVE PURCHASE ORDER FOR EQUIPMENT AND LABOR FOR THE NEW POLICE FACILITY**8
Recommended Action(s): Authorize the City Manager to Approve a Purchase Order in the Amount of \$7,841.27 to Verizon Telephone Company for the Additional Cost of the Installation of Upgraded Phone Equipment and Labor to Complete the Project at the New Police Facility.
3. **APPROVAL OF A RESOLUTION IN SUPPORT OF GUIDELINES AND STANDARDS FOR LAND USES NEAR STREAMS AND THE 2005-2006 IMPLEMENTATION PROGRAM OF THE SANTA CLARA VALLEY WATER RESOURCES PROTECTION COLLABORATIVE**.....9
Recommended Action(s): Adopt the Resolution in Support of the Guidelines and Standards for Land Uses Near Streams and the 2005-2006 Implementation Program of the Santa Clara Valley Water Resources Protection Collaborative.
4. **AWARD FARALLON DRIVE STORM DRAIN SYSTEM AND MISCELLANEOUS STORM DRAIN REPAIR PROJECT**14
Recommended Action(s):
 1. **Award** Contract to Casey Construction for the Construction of the Farallon Drive Storm Drain System and Miscellaneous Storm Drain Repair Project in the Amount of \$347,685, Subject to Review and Approval by the City Attorney; and
 2. **Authorize** Expenditure of Construction Contingency Funds, Not to Exceed \$34,768.
5. **RESOLUTION SUPPORTING AHWAHNEE WATER PRINCIPLES FOR RESOURCE-EFFICIENT LAND USE**15
Recommended Action(s): Adopt Resolution.

Time Estimate

Page

Consent Calendar: 1 - 10 Minutes

6. **PURCHASE OF REPLACEMENT PHOTOCOPIER AND A PRINTER FOR COMMUNITY DEVELOPMENT DEPARTMENT**.....19
Recommended Action(s):
 1. **Authorize** the Purchase of a New Copier and a Color Printer for the Community Development Department through Rabbit Office Automation for a Total Cost of \$29,023;
 2. **Declare** the Existing Photocopier as Surplus and **Authorize** Disposal by the Purchasing Officer; and
 3. **Authorize** the City Manager to Execute the Maintenance Agreement, Subject to Review and Approval by the City Attorney.

7. **APPROVE MARKETING STUDY TO EVALUATE POSSIBLE PARTNERSHIP OPERATING MODEL FOR THE INDOOR RECREATION CENTER (IRC)**20
Recommended Action(s):
 1. **Authorize** the City Manager to Execute a Contract, Subject to Review and Approval by the City Attorney, to Pay for One Half the Cost of a Market Study that would Evaluate the Financial Assumptions Contained in this Proposal; and
 2. **Approve** a \$12,000 Increase in the IRC 2005-2006 Budget to Accommodate this Expenditure.

8. **ADOPT ORDINANCE NO. 1741, NEW SERIES**27
Recommended Action(s): **Waive** the Reading, and **Adopt** Ordinance No. 1741, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A PLANNED UNIT DEVELOPMENT (PUD) FOR A 2.94-ACRE PARCEL LOCATED AT THE NORTHWEST CORNER OF MAST STREET AND RAILROAD AVENUE TO ALLOW CONCRETE BATCHING PLANTS AS A PERMITTED USE IN THE PUD AND SILOS UP TO 70 FEET IN HEIGHT (APN 817-02-064) (ZA-05-06: CITY OF MORGAN HILL – MAST STREET PUD DISTRICT AMENDMENT).**

9. **ADOPT ORDINANCE NO. 1742, NEW SERIES**32
Recommended Action(s): **Waive** the Reading, and **Adopt** Ordinance No. 1742, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1707, NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-04-02: Monterey – South County Housing (Royal Court) (APNs 764-12-008, -009, -018, & -019) (DAA-04-07: MONTEREY – SOUTH COUNTY HOUSING (ROYAL COURT)).**

10. **ADOPT ORDINANCE NO. 1743, NEW SERIES**37
Recommended Action(s): **Waive** the Reading, and **Adopt** Ordinance No. 1743, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTION 18.04.245 OF THE MORGAN HILL MUNICIPAL CODE, ELIMINATING THE STREET FRONTAGE REQUIREMENT TO THE LOT DEFINITION, AND AMENDING SECTION 18.050.200, ELIMINATING THE RESTRICTION ON TANDEM PARKING FOR REQUIRED PARKING SPACES IN THE R-2, R-3, R-4 AND CC/R ZONING DISTRICTS.**

Time Estimate	Page
Consent Calendar: 1 - 10 Minutes	

- | | | |
|-----|--|----|
| 11. | <u>ADOPT ORDINANCE NO. 1744, NEW SERIES</u>40
Recommended Action(s): <u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1744, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ADDING ARTICLE IV TO CHAPTER 18.54 (CONDITIONAL AND TEMPORARY USE PERMITS) OF TITLE 18 (ZONING) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL, TO ESTABLISH PROVISIONS FOR DOWNTOWN ADMINISTRATIVE USE PERMITS, AND AMENDING SECTION 18.24.030 TO ALLOW FOR ISSUANCE OF SUCH FOR GROUND FLOOR OFFICE AND PERSONAL SERVICE USES LOCATED ALONG MONTEREY ROAD AND THIRD STREET. | 40 |
| 12. | <u>APPROVE JOINT SPECIAL & REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF OCTOBER 19, 2005</u>47 | 47 |

Redevelopment Agency Action

OTHER BUSINESS:

Time Estimate	Page
----------------------	-------------

- | | | | |
|-----|------------|--|----|
| 13. | 30 Minutes | <u>REDEVELOPMENT PLAN AMENDMENT FEASIBILITY STUDY</u>70
Recommended Action(s): <u>Authorize</u> the Executive Director to Issue a Request for Proposal (RFP) for Firms to Prepare a Redevelopment Plan Amendment and the Environmental Assessment Necessary for the Plan Amendment. | 70 |
|-----|------------|--|----|

FUTURE COUNCIL-INITIATED AGENDA ITEMS:

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

ADJOURNMENT



CITY COUNCIL STAFF REPORT

MEETING DATE: NOVEMBER 2, 2005

TITLE: RE-BUDGETING 04/05 PROJECTS/PROGRAMS

RECOMMENDED ACTION(S):

- 1) Approve the re-budgeting of 04/05 project/program costs in the 05/06 budget.

EXECUTIVE SUMMARY:

Certain project and programs costs for various funds were projected as being completed before the end of the 2004/05 fiscal year and were not budgeted in 2005/06. A budget amendment is needed to re-budget in 2005/06 for those projects/programs that were not completed at the end of 04/05.

FISCAL IMPACT:

The amounts for re-budgeting in fiscal year 2005/06 have no impact on fund balance. These costs were expected to be spent in fiscal year 04/05 and were included in projected expenditures at year end and used in calculating ending fund balance. A summary of the projects/programs being re-budgeted with unspent 04/05 appropriations is attached (Exhibit A). In addition, please note there are three CIP projects being reduced. At the time the budget was prepared costs for these projects were more than what is now required. These adjustments will reduce the amount budgeted for those projects in fiscal year 2005/2006.

Agenda Item # 1

Prepared By:

Budget Manager

Approved By:

Finance Director

Submitted By:

City Manager

FY04/05 Rebudget to FY05/06

Project String	Capital Project Description	Total
534004.f202.83600.000	Bike Detection Loop	33,896
539005.f202.83600.000	Depot Street Reconstruction (Livable Cr	(44,353)
	202-Street Fund Total	(10,457)
120001.f301.83600.000	Community Park Improvements	19,075
	301-Park Development Fund Total	19,075
415097.f304.83600.000	Storm Pipe Installation	95,999
	304-Local Drainage (Non AB1600) Total	95,999
534004.f309.83600.000	Bike Detection Loop	10,000
507b99.f309.83600.000	Tennant Ave Widening	95,366
	309-Traffic Impact Fund Total	105,366
417099.f317.83600.000	Llagas Flood Control	30,000
507b99.f317.83600.000	Tennant Ave Widening	200,543
	317-RDA Fund Total	230,543
228000.f346.83600.000	Police Facility	38,000
	346-Public Facilities Fund Total	38,000
529001.f350.83600.000	Underground Utilities	(104,362)
537004.f350.83600.000	Depot Street Undergrounding	(69,523)
	350-Undergrounding Fund Total	(173,886)
304G03.f643.83600.000	Lift Station G Improvements	61,784
	643-Sewer System Replacement Total	61,784
608093.f653.83600.000	Rehabilitate Water Wells	50,000
	653-Water System Replacement Total	50,000
	Total CIP Projects	\$ 416,424

Account	Operations Project Description	Total
010.2410.42245	Network Equipment	\$ 400
010.5450.42245	Computer Purchase	\$ 2,125
	010-General Fund Total	2,525
317.8010.82231	Centennial Activities	27,000
	317-RDA Fund Total	27,000
	Total Operations Projects	\$ 29,525



CITY COUNCIL STAFF REPORT

MEETING DATE: *November 2, 2005*

APPROVE PURCHASE ORDER FOR EQUIPMENT AND LABOR FOR THE NEW POLICE FACILITY

RECOMMENDED ACTION(S):

- 1) Authorize the City Manager to approve a Purchase Order in the amount of \$7,841.27 to Verizon Telephone Company for the additional cost of the installation of upgraded phone equipment and labor to complete the project at the new police facility.

EXECUTIVE SUMMARY:

In July '03 the council purchased a building located at 16200 Vineyard Blvd. as the future Morgan Hill Police Department. The Council approved the purchase price and the estimated Furniture, Fixtures, & Equipment to complete the project. As the final design phase was completed for the tenant improvements, the installation of the upgraded phone system was purchased on an earlier council approved purchase order.

As the project neared completion, additional phone equipment was identified as needed to complete the project and render the phone system operational. Due to the target date of June 14, 2004 for opening operations at the new facility, the needed equipment was quickly ordered and some of that equipment installed. In order to meet the opening date, overtime was necessary by Verizon to complete the initial installation in order to meet our opening date.

The Police Facility received the remainder of the ordered equipment in June 2005. After Verizon finished the project, they submitted a total bill of \$41,871.27. We requested a breakdown of the remaining costs of \$7,841.27. These costs were for partially for overtime to complete the project in time and for two digital trunk lines to be able to expand the number of phones lines coming into the new facility in order to support the Emergency Operations Center. To date we have been approved for \$34,030.00 by Council and request this additional cost of \$7,841.27. These costs have been justified and verified by staff.

FISCAL IMPACT:

The additional \$7,841.27 in funds will be drawn from two sources in the 05/06 budget. \$3,000.00 will come from the building maintenance fund # 740, account number 5150-42510. The remaining \$4,841.27 will come from the New Facility FF&E account #22800.F346.86450.000. Sufficient appropriations are available in this budget to pay this cost, assuming that the City Council approves the "Re-budgeting 04/05 Projects/Programs" staff report recommendation on this evening's consent agenda.

Agenda Item # 2

Prepared By:

Cmdr. Terrie Booten

Approved By:

Chief Bruce C. Cumming

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: *November 2, 2005*

APPROVAL OF A RESOLUTION IN SUPPORT OF GUIDELINES AND STANDARDS FOR LAND USES NEAR STREAMS AND THE 2005-06 IMPLEMENTATION PROGRAM OF THE SANTA CLARA VALLEY WATER RESOURCES PROTECTION COLLABORATIVE

Agenda Item # 3

Prepared By:

Public Works Director

**Community
Development Director**

Submitted By:

City Manager

RECOMMENDED ACTION(S): Staff recommends that Council adopt the attached resolution in support of the Guidelines and Standards for Land Uses Near Streams and the 2005-06 Implementation Program of the Santa Clara Valley Water Resources Protection Collaborative.

EXECUTIVE SUMMARY: The Santa Clara Valley Water Resources Protection Collaborative (Collaborative) was convened in February 2003 as an ad hoc working group to address issues related to land use near streams. The Collaborative consists of representatives from 15 municipalities (including the City of Morgan Hill), the County of Santa Clara, the Santa Clara Valley Water District (District) and other community and environmental group stakeholders. In September 2003, the Morgan Hill City Council approved a resolution in support of the Collaborative's mission to develop and implement watershed resource protection guidelines and standards.

The origins of the Collaborative trace back to the District's effort to extend its permitting authority beyond its traditional jurisdictional boundary of 50 feet from District streams and facilities within Santa Clara County. Representatives from the cities in Santa Clara County and the County of Santa Clara, while supportive of the District's goals of stream and riparian corridor protection, preservation of surface and groundwater quality, and flood protection, were concerned about the potential conflicts between the District's permit requirements and local agencies' land use and zoning regulations. The Collaborative was formed as a consensus-based forum in which the local agencies, the District, and other interested parties could jointly develop 1) a set of guidelines and standards for land uses near streams consistent with their mutual stream protection goals, and 2) an implementation program which clearly delineates the roles of the District and the local agencies in land use permitting and regulation for properties near streams.

Staff from the local agencies, District representatives, and stakeholders from community and environmental groups, assisted by a professional facilitator, have met monthly for the past two and a half years as members of the Collaborative. Public Works Director Jim Ashcraft and Community Development Director Kathy Molloy Previsich have been representing the City of Morgan Hill in the Collaborative process. The Collaborative has recently achieved a major milestone by reaching consensus on a number of key policy issues and guidance documents. The attached resolution is being submitted to Council for approval in order to formalize the consensus points agreed to by staff.

FISCAL/RESOURCE IMPACT: The implementation program identified above will have no impact on the City's budget. There will be impacts on City resources since additional staff effort will be required to implement this program, but it is staff's intent to absorb this workload within existing staffing levels. Including this program within the development review process will add an additional review factor for some projects, however, having clear policies, guidelines and standards for land use near streams will mitigate the potential for delay.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL IN SUPPORT OF THE GUIDELINES AND STANDARDS AND THE 2005-2006 IMPLEMENTATION PROGRAMS OF THE WATER RESOURCES PROTECTION COLLABORATIVE FOR THE PLANNING AND PERMIT REGULATION FOR THE PROTECTION OF WATER RESOURCES WITH SANTA CLARA COUNTY

WHEREAS, the Santa Clara Valley Water District (SCVWD), along with representatives of the County of Santa Clara, the fifteen Cities in Santa Clara County, the San Francisco Bay Regional Water Quality Board, various business and development interests, property owners and environmental and community interests have formed and are members of the Water Resources Protection Collaborative; and

WHEREAS, All Collaborative members share the watershed resource protection goals of flood management, drinking water quality and quantity, surface and groundwater quality and quantity, and habitat protection and enhancement; and

WHEREAS, SCVWD, Cities and County are committed to furthering these goals through the adoption of land development guidelines and standards jointly developed with other stakeholders; and

WHEREAS, in order to accomplish these goals, the Collaborative recognizes the importance of private creek side owner' interests, monitoring and accountability, and delineation of responsibility for administering mutually agreed-upon policy, guidelines, and standards to which SCVWD, County and municipal activities, and permit review, shall conform; and,

WHEREAS, it is recognized that SCVWD, Cities and County through Implementation of their National Pollutant Discharge Elimination System (NPDES) Permit, Best Management Practices and other means have continuously acted to protect the watersheds and water quality in Santa Clara County; and,

WHEREAS, it is recognized that Local Control is the Key Principle to the implementation of resource protection goals, and that Cities and the County are the primary jurisdictions for LAND USE PLANNING and LAND USE PERMIT REGULATION, and that the broader stakeholder community has a central role in local stewardship and enhanced resource protection; now,

THEREFORE, BE IT RESOLVED that the City Council of the City of Morgan Hill ratifies and supports the above foundational principles of the Water Resources Protection Collaborative; and,

BE IT FURTHER RESOLVED that the City Council of the City of Morgan Hill supports the following specific components of the Collaborative agreement:

1. A commitment by the City of Morgan Hill to make best efforts to incorporate the Guidelines and Standards and other implementing tools into their appropriate land use processes by February of 2007.
2. Commitment for appropriate levels of participation in the Monitoring, Assessment and Adaptive Management process.
3. Commitment for participation in the early consultation of projects with SCVWD as appropriate.

4. Commitment for continued attendance by City of Morgan Hill members of the Collaborative at quarterly meetings through February of 2007.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 2nd Day of November, 2005 by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

☛ CERTIFICATION ☛

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. ____, adopted by the City Council at a Regular Meeting held on November 2, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



Memorandum

Public Works Department

Date: October 26, 2005

To: Ed Tewes, City Manager

From: Jim Ashcraft, Public Works Director and
Kathy Molloy Previsich, Community Development Director

Subject: APPROVAL OF A RESOLUTION IN SUPPORT OF GUIDELINES AND STANDARDS FOR LAND USES NEAR STREAMS AND THE 2005-06 IMPLEMENTATION PROGRAM OF THE SANTA CLARA VALLEY WATER RESOURCES PROTECTION COLLABORATIVE

DISCUSSION

Members of the Collaborative and their support staff have jointly developed the following documents:

- Guidelines and Standards for Land Uses Near Streams
- Implementing Tools for the Guidelines and Standards for Land Uses Near Streams
- Adaptive Management Plan and Process for the Guidelines and Standards for Land Uses Near Streams
- Work Plan for Outreach for the Guidelines and Standards for Land Uses Near Streams
- Work Plan for the Water Resources Protection Collaborative (September 2005 – February 2007)
- Work Plan for Early Consultation Program for Review of Land Uses Near Streams
- Work Program for the District's Comprehensive Plan

The Guidelines and Standards for Land Uses Near Streams (G&S) cover a wide range of issues affecting land development near and in local streams. The G&S address issues such as building setbacks, riparian corridor buffers, creek bank stabilization techniques, vegetation management (e.g. preservation of native riparian vegetation and prohibitions against planting of non-native, invasive species, etc.), bridge and storm drain outfall design, and floodplain management. Adoption of these G&S as ordinances and/or policies by the District and each of the local agencies within Santa Clara County will ensure that stream and riparian corridor protection measures are applied uniformly throughout the County. The local agency members of the Collaborative have agreed to ask their governing bodies to adopt a resolution of support that commits their agency to a number of actions related to the G&S in the coming years, as described below:

1. A commitment to make best efforts to incorporate the G&S and associated implementation tools into appropriate land use review processes no later than February 2007.

Planning staff intends to modify development processing procedures and/or ordinances, as necessary, during 2006 to incorporate the G&S and other appropriate implementation tools for single-family residential and other land use developments proposed near streams.

2. A commitment for appropriate levels of staff participation in the monitoring, assessment, and adaptive management processes.

Planning staff will modify the City's development review tracking system to monitor streamside permit activity within the City. Planning and Public Works will prepare quarterly reports, which will be submitted to the Collaborative Work Team. These reports will assess the effectiveness of the application of the G&S process in Morgan Hill.

3. A commitment for participation in a process of early consultation with the District for projects near streams, as appropriate.

The Public Works and Community Development Departments will soon meet with District staff to explain Morgan Hill's existing development review process, and to learn about the District's land use review processes. The District's map will be mapped into the city's Geographic Information System (GIS). A strategy for transitioning some or all District permitting responsibilities to the City will be developed. Staff will refer applications for creekside projects to the District for review and comment, as applications are received, and there will be the opportunity for District staff to participate in Development Review Committee (DRC) meetings for creekside projects.

4. A commitment for continued attendance by staff members at quarterly Collaborative meetings through February 2007.

Jim Ashcraft and Kathy Molloy Previsich will continue to represent the City of Morgan Hill at quarterly Collaborative meetings through February 2007.



CITY COUNCIL STAFF REPORT

MEETING DATE: NOVEMBER 2, 2005

AWARD OF FARALLON DRIVE STORM DRAIN SYSTEM AND MISCELLANEOUS STORM DRAIN REPAIR PROJECT

RECOMMENDED ACTION(S):

1. Award contract to Casey Construction for the construction of the Farallon Drive Storm Drain System and Miscellaneous Storm Drain Repair project in the amount of \$347,685.
2. Authorize expenditure of construction contingency funds not to exceed \$34,768.

EXECUTIVE SUMMARY: The scope of work for this project includes the installation of storm drain pipe, manholes, drain inlets, concrete and earth swales, trench restoration, slurry seal and striping per the Plans and Specification documents.

The bid opening was held on October 20, 2005 and the bids received are as listed below. The low bidder has not previously performed work for the City of Morgan Hill. Staff performed a standard reference background check and received no negative feedback; therefore, Staff recommends award of the contract to Casey Construction. This project is scheduled to begin construction in late November and be completed in February 2006. Casey Construction's bid was 8.6 % higher than the engineer's estimate of \$320,000.

<u>Contractor Name</u>	<u>Base Bid</u>
Casey Construction	\$347,685
Pavex Construction Company	\$362,638
McGuire & Hester	\$378,614
Earthworks Paving Contractors	\$385,631
Trinet Construction	\$430,135
Granite Construction Company	\$448,448

FISCAL/RESOURCE IMPACT: The total contract cost for this project is \$382,453, which includes a 10% contingency of \$34,768. Presently, there is a balance of \$200,000 in the current year CIP Budget for project #415A05 which is funded by Regional Drainage non-AB1600 Funds (304). Since the Dunne/Hill storm drain project will not be constructed this fiscal year due to permitting issues with SCVWD, Staff recommends that the additional \$182,453 be transferred from the Dunne and Hill Road storm drain project #421004, which also has funding source Regional Drainage non-AB1600 Funds (304) in order to complete this project. The Dunne/Hill Storm Drain project will be recommended for full funding next year.

Agenda Item # 4

Prepared By:

Associate Engineer

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: *November 2, 2005*

RESOLUTION SUPPORTING AHWAHNEE WATER PRINCIPLES FOR RESOURCE-EFFICIENT LAND USE

RECOMMENDED ACTION(S): Adopt Attached Resolution

EXECUTIVE SUMMARY: At a recent Utilities and Environment Subcommittee meeting, the Subcommittee evaluated the Ahwahnee Water Principles for Resource-Efficient Land Use. Developed by the Local Government Commission, these Principles are forward-thinking concepts designed to minimize water waste, reduce storm water flows, and enhance economic prosperity. The Principles were recently supported by the membership of the League of California Cities.

The Subcommittee agreed with the Principles and recommends that the Ahwahnee Water Principles for Resource-Efficient Land Use be adopted by the City Council as a general policy guide for the City on water issues.

The Principles and a Resolution adopting them are attached.

FISCAL/RESOURCE IMPACT: There are no direct fiscal impacts associated with this item. The staff time to prepare policy recommendations from the Subcommittee is included in the work program of the Public Works Department.

Agenda Item # 5

Prepared By:

Program Administrator

Approved By:

Public Works Director

Submitted By:

City Manager

The Ahwahnee Water Principles for Resource Efficient Land Use

Preamble

Cities and counties are facing major challenges with water contamination, storm water runoff, flood damage liability, and concerns about whether there will be enough reliable water for current residents as well as for new development. These issues impact city and county budgets and taxpayers. Fortunately there are a number of stewardship actions that cities and counties can take that reduce costs and improve the reliability and quality of our water resources.

The Water Principles below complement the Ahwahnee Principles for Resource-Efficient Communities that were developed in 1991. Many cities and counties are already using them to improve the vitality and prosperity of their communities.

Community Principles

1. Community design should be compact, mixed use, walkable and transit-oriented so that automobile-generated urban runoff pollutants are minimized and the open lands that absorb water are preserved to the maximum extent possible.
2. Natural resources such as wetlands, flood plains, recharge zones, riparian areas, open space, and native habitats should be identified, preserved and restored as valued assets for flood protection, water quality improvement, groundwater recharge, habitat, and overall long-term water resource sustainability.
3. Water holding areas such as creek beds, recessed athletic fields, ponds, cisterns, and other features that serve to recharge groundwater, reduce runoff, improve water quality and decrease flooding should be incorporated into the urban landscape.
4. All aspects of landscaping from the selection of plants to soil preparation and the installation of irrigation systems should be designed to reduce water demand, retain runoff, decrease flooding, and recharge groundwater.
5. Permeable surfaces should be used for hardscape. Impervious surfaces such as driveways, streets, and parking lots should be minimized so that land is available to absorb storm water, reduce polluted urban runoff, recharge groundwater and reduce flooding.
6. Dual plumbing that allows grey water from showers, sinks and washers to be reused for landscape irrigation should be included in the infrastructure of new development.
7. Community design should maximize the use of recycled water for appropriate applications including outdoor irrigation, toilet flushing, and commercial and industrial processes. Purple pipe should be installed in all new construction and remodeled buildings in anticipation of the future availability of recycled water.
8. Urban water conservation technologies such as low-flow toilets, efficient clothes washers, and more efficient water-using industrial equipment should be incorporated in all new construction and retrofitted in remodeled buildings.
9. Ground water treatment and brackish water desalination should be pursued when necessary to maximize locally available, drought-proof water supplies.

Implementation Principles

1. Water supply agencies should be consulted early in the land use decision-making process regarding technology, demographics and growth projections.
2. City and county officials, the watershed council, LAFCO, special districts and other stakeholders sharing watersheds should collaborate to take advantage of the benefits and synergies of water resource planning at a watershed level.
3. The best, multi-benefit and integrated strategies and projects should be identified and implemented before less integrated proposals, unless urgency demands otherwise.
4. From start to finish, projects and programs should involve the public, build relationships, and increase the sharing of and access to information. The participatory process should focus on ensuring that all residents have access to clean, reliable and affordable water for drinking and recreation.
5. Plans, programs, projects and policies should be monitored and evaluated to determine if the expected results are achieved and to improve future practices.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ADOPTING THE AHWAHNEE WATER PRINCIPLES FOR RESOURCE-EFFICIENT LAND USE

WHEREAS, cities throughout California are facing major challenges related to water contamination, storm water runoff, flood damage liability, and concerns about whether there will be enough reliable water for current residents as well as for new development; which are issues that impact city budgets and taxpayers; and

WHEREAS, land use decisions made at the local level have major impacts on local, regional, and state water resources in terms of quality, quantity, and availability; and

WHEREAS, the City of Morgan Hill has a long history of supporting actions to reduce water waste and promote efficiency; and

WHEREAS, the Local Government Commission, in partnership with the League of California Cities and the California State Association of Counties, sought funding from the State Water Resources Control Board to develop principles related to water-efficiency and land use; and

WHEREAS, the Local Government Commission developed a set of principles known as the Ahwahnee Water Principles for Resource-Efficient Land Use which address the disconnect between local land use decisions and water resources, and which complement the earlier Ahwahnee Principles for Resource-Efficient Communities.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Morgan Hill does resolve, determine and order the following:

1. That the Ahwahnee Water Principles shall serve as a guideline for the City in policy matters related to water, water use, water and wastewater management, and general growth and development as city and a community.
2. All City Departments shall make their best efforts to incorporate the Ahwahnee Water Principles into work activities as feasible.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 2nd Day of November, 2005 by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

☞ CERTIFICATION ☞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on November 2, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: November 2, 2005

Agenda Item # 6

Prepared By:

**Community
Development
Director**

Submitted By:

City Manager

PURCHASE OF REPLACEMENT PHOTOCOPIER AND A PRINTER FOR COMMUNITY DEVELOPMENT DEPARTMENT

RECOMMENDED ACTION(S): By motion:

- (1) Authorize the purchase of a new copier and a color printer for the Community Development Department through Rabbit Office Automation for a total cost of \$31,400.00; and
- (2) Declare the existing photocopier as surplus and authorize disposal by the Purchasing Officer; and
- (3) Authorize the City Manager to execute the attached Maintenance Agreement, subject to review and approval by the City Attorney.

EXECUTIVE SUMMARY:

The Community Development Department (CDD) is requesting replacement of its photocopy machine and purchase of a color laser printer, along with authorization to enter into a maintenance agreement for the new machines.

The photocopier used by the Community Development Department is consistently breaking down and it is time to replace the machine. The machine is about seven years old, and over the past few months it has been common to make service calls from one to three times per week. In addition to supporting the copying needs of Department staff, the machine is used to prepare agenda packets for the Planning Commission and Architectural Review Board. Funding for the purchase was included in the adopted FY 2005-06 Budget.

Presently, the Community Development Department does not have a color printer, and when color printing is necessary, documents are sent to the City Clerk's machine for printing. It is preferable that the Department have its own color printer, so that the Clerk's machine does not prematurely wear out. The Community Development Department prepares many official documents and public presentation materials, which are many times more "user friendly" and effective when prepared in color. The existing black and white laser printer will be retained and also available for use. Funding for the purchase of the color printer was included in the adopted FY 2005-06 Budget.

The total cost of using the photocopier will be less expensive than is the case with the existing machine, as it currently costs \$1,461 per month to lease the machine. The proposed Maintenance Agreement is the same as already in effect for machines purchased from Rabbit in 2004; the cost is the citywide standard of \$.007 for black and white and \$.07 for color copies, including all parts, labor and consumables with the exception of paper which should amount to \$230.00 per month or \$2,760.00 per year. The price of the two machines is about the same as the current costs to lease the photocopier for just 24 months. The recommended purchases and agreement are consistent with the findings and recommendations of the Purchasing Study Team Subcommittee. The cost of the machines is based upon federal GSA competitive pricing. The machines will be ordered upon approval by the City Council and should arrive within about two weeks after ordering.

FISCAL/RESOURCE IMPACT: Funds were appropriated and are available for the purchase in the below-noted funds.

Building Division	#206.5130.43835	\$10,500
Planning Division	#206.5120.43840	\$21,000



CITY COUNCIL STAFF REPORT

MEETING DATE: *November 2, 2005*

Agenda Item # 7

Prepared By:

(Title)

Approved By:

(Department Director)

Submitted By:

City Manager

APPROVE MARKETING STUDY TO EVALUATE POSSIBLE PARTNERSHIP OPERATING MODEL FOR THE INDOOR RECREATION CENTER (IRC)

RECOMMENDED ACTION(S):

1. Authorize the City Manager to Execute a Contract to pay for one half the cost of a Market Study that would evaluate the Financial Assumptions contained in this Proposal.
2. Approve a \$12,000 increase in the IRC 2005-2006 budget to accommodate this expenditure.

EXECUTIVE SUMMARY:

The city is currently constructing an Indoor Recreation Center. On September 3, 2003 the Council decided to explore entering in to a contract with the YMCA to provide certain services at the IRC. Council directed staff to negotiate a contract with the YMCA for the provision of aerobics, aquatics and fitness programs. Also, the City is to determine types, schedules and prices for classes.

In the succeeding time, both the YMCA and City staff have explored different models, but have not yet been able to agree on a proposal that fully conforms with the council's direction.

Recently, the YMCA has presented a new proposal that the Council's PS & CS Committee would like to explore further. It is recognized that this proposal may require modification of earlier policy decisions, but before doing so the Committee requests that we participate in an update to earlier market studies to test the participation rates and the cost recovery potential of this proposal.

The Committee believes that with this additional information the Council can have a more meaningful policy discussion on the relative importance of competing goals: cost recovery, maximum community access and affordability to users, as well as to clarify the objectives of the center.

FISCAL IMPACT:

There is now no money in the IRC 2005-2006 budget to cover this market study. Staff requests that the IRC budget be increased by \$12,000 so that this study can be performed. The study results will help protect the City's investment in the IRC.

Possible partnership operating model between the City of Morgan Hill and the YMCA of Santa Clara Valley, Mt. Madonna branch

Proposal from: Rod Cooper, Interim Recreation Manager, City of Morgan Hill

Pam Von Wiegand, Executive Vice President
YMCA of Santa Clara Valley

The City of Morgan Hill and the YMCA of Santa Clara Valley each bring important, but separate, strengths in delivering recreation programming to the residents of Morgan Hill, and therefore we believe that the operation of the IRC will be enhanced by a partnership.

The following is a draft of what a possible model might look like, and a list of assumptions and tasks to be reviewed, revised and ultimately affirmed if such a partnership is to be achieved.

Assumptions:

The City will contract with the YMCA of Santa Clara Valley to pay for the cost of delivering programs that are operated by the YMCA. All income from the operation of the IRC will go to the City.

The manager of the Indoor Recreation Center will be hired cooperatively by the City and the YMCA and will work for both the City and the YMCA. The IRC manager will be responsible for meeting the goals and objectives of this partnership.

Responsibilities include but are not limited to: sales, marketing, programming, budgeting, cost control, building and equipment maintenance and staff supervision. The IRC manager will report to a person of the City's choosing and to a person of the YMCA's choosing. The IRC manager will be hired and supervised jointly. Both parties will make good faith efforts to resolve any differences that might arise.

However, the City, at its discretion, may decide any unresolved matters.

Other staff at the IRC will be hired to work for the YMCA or for the City depending on the particular needs of the program.

An agreement between the City and the YMCA will be created that will establish the parameters of this partnership, but it is recognized that the details of the day to day operation must adapt to the changing situation in the Center. All staff must work together as a team to deliver quality programs and services to the citizens of Morgan Hill.

In order to offer the best service to members of the community, the City and the YMCA will work to coordinate programs, schedules, prices, and pass holder privileges between the IRC, Aquatics Center, and CCC. Absent agreement, the City may, at its discretion, decide any unresolved conflicts.

After reviewing a variety of factors, we recommend the following programmatic breakdown:

- The YMCA has experience in delivering health and fitness programming, and in operating these services in a business model that maximizes financial return, therefore IRC YMCA staff will take the lead in marketing and enrolling participants in the health and fitness related programming at the center.
- Because the gym is an integral part of the fitness programming, the IRC YMCA will schedule the gym and manage additional rentals to outside groups.
- The City is already operating aquatics programs at the Aquatics Center, and it is in the best interest of the residents that these programs operate seamlessly between the two facilities. Therefore all aquatics programs regardless of location will be operated by the Aquatics Director employed by the city. We will seek to develop a pass structure that lets participants move easily between the two facilities.
- The City has well functioning departments that maintain all city properties and facilities, and therefore would be the best entity to be responsible for short and long term maintenance.

- Because the City has such a strong interest in building assets and this is often assisted by intergenerational programming, City staff will take the lead in the programming for teens and seniors.
- All income from rentals and passes will go to the city

Structure:

SEE ORGANIZATION CHART

Timeline:

Understanding that time is of the essence because the facility will be open in September of 2006, it is important that an operating model be well developed by mid January 2006. Therefore, the following tasks will need to be accomplished in order to allow the City and the YMCA to approve a final partnership.

Task	Timeline
Interim Recreation Manager (IRM) and YMCA will develop an operating plan	By October 17
IRM will seek input from City Manager, City Council, PSCS Committee, Parks and Rec Commission	Start October 17
YMCA will seek input from Mt. Madonna YMCA Board, and YMCA of Santa Clara Valley Board	By October 28
City and YMCA will jointly conduct a marketing study to determine key financial components of pricing and pass structure for the IRC and Aquatics Center	By November 9 By October 19 By November 9 By November 21 January 6
City and YMCA approve shared cost on Market study	
Identify possible prices/structure	
First draft of questions to be asked	
Finalize questions/details of study	
Conduct study	
Receive results	
IRM develop job description, hiring process for manager	By November 15
Develop first draft proforma budget based on operating model	By October 18
IRM drafts possible partnership contract	By January 16
Finalize models and fees and second draft proforma budget	By January 16

Finances:

The City would sell passes for both the Indoor Recreation Center and the Aquatics Center facilities. Each would be priced separately based on the finances of the separate facilities.

People wanting to use the Indoor Recreation Center will be given 2 purchasing options:

Pass Holders: Passes can be paid either on an annual basis, or paid for through a monthly bank draft. (People can stop their pass draft at any time with 7 day notice.) Rates will be established jointly by the City and the YMCA. In the absence of agreement, the City may decide rates. Rates for non-residents would be set about 10% higher than residents. Suggested categories:

Adult (includes children 18 and under at the same address)

Family (2 adults and children 18 and under at the same address)

Non Prime Time (specific hours to be identified, but probably 9–5 daily plus weekends. Lower price for those who can work out during non-peak times especially seniors)

Teen (age 11–18)

Daily Drop In: Daily fees would be available for those who do not want to purchase a pass. A differential would exist for non-residents. Rates will be set jointly by the City and the YMCA. In the absence of agreement, the City may set the fees. Suggested categories:

Adult

Senior

Teen/child

No one would be turned away because of an inability to pay. Scholarships would be available.

Pass holders and daily drop in patrons would have free access to a group of programs identified as “Core Programs”. Additional programs beyond this group would be available at additional cost. This group of core programs would be worked out between the City and the YMCA. Generally, all programs that need a

specialized instructor for a limited group of people would be fee based programs. A preliminary list includes:

Core Programs

Group Fitness classes
Aerobics (land and water)
Step classes
Senior Fitness
Group cycling
Arthritis Water Exercise
Low impact aerobics
12 Week Personalized Fitness plan
8 weeks to wellness
Recreational Swim
Fitness assessments
Fitness Center (strength and cardio
Equipment)
Open Gym
Child watch

Fee based Programs

Swim lessons
Personal training
Weight training
Tai Chi
Yoga
Adult sports leagues
Youth sports leagues
Martial Arts instruction
Gymnastics instruction

Additional revenue sources to the city would include gym and classroom rentals, and some specialty classes.

Although the City is responsible for the overall financial viability of the IRC, it will depend heavily on the YMCA's ability to deliver promised revenues to maximize cost recovery. Therefore as an incentive to the YMCA, during this agreement, at the end of any fiscal year in which the IRC exceeds full cost recovery, the YMCA will receive from the City, twenty-five per cent of the amount that exceeds full cost recovery for that fiscal year. In the event that the YMCA falls more than ten per cent short of its own budget projections for any fiscal year, during this agreement, the YMCA will rebate to the City at the end of that fiscal year an amount equal to ten per cent of the YMCA's IRC budget for the fiscal year in question. The City may wave this rebate at its discretion.

It is the intent of this agreement to form a partnership between the City of Morgan Hill and the Santa Clara Valley YMCA that will result in the optimum operation of the IRC for the residents of Morgan Hill and the surrounding area.

Each party to this agreement will endeavor to cooperate with each other to facilitate effective operation of the IRC. However, if certain conflicts cannot be resolved, the City, at its discretion, may decide unresolved conflicts.

The term of this agreement shall be two 5 year terms. Either party may withdraw after the first 5 year term.



CITY COUNCIL STAFF REPORT

MEETING DATE: November 2, 2005

Agenda Item # 8

Prepared By:

Deputy City Clerk

Approved By:

City Clerk

Submitted By:

City Manager

ADOPT ORDINANCE NO. 1741, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A PLANNED UNIT DEVELOPMENT (PUD) FOR A 2.94-ACRE PARCEL LOCATED AT THE NORTHWEST CORNER OF MAST STREET AND RAILROAD AVENUE TO ALLOW CONCRETE BATCHING PLANTS AS A PERMITTED USE IN THE PUD AND SILOS UP TO 70 FEET IN HEIGHT (APN 817-02-064) (ZA-05-06: CITY OF MORGAN HILL – MAST STREET PUD DISTRICT AMENDMENT)

RECOMMENDED ACTION(S):

Waive the Reading, and **Adopt** Ordinance No. 1741, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

EXECUTIVE SUMMARY:

On October 19, 2005, the City Council Introduced Ordinance No. 1741, New Series, by the Following Roll Call Vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

FISCAL IMPACT:

No budget adjustment required.

ORDINANCE NO. 1741, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A PLANNED UNIT DEVELOPMENT (PUD) FOR A 2.94-ACRE PARCEL LOCATED AT THE NORTHWEST CORNER OF MAST STREET AND RAILROAD AVENUE TO ALLOW CONCRETE BATCHING PLANTS AS A PERMITTED USE IN THE PUD AND SILOS UP TO 70 FEET IN HEIGHT (APN 817-02-064) (ZA-05-06: CITY OF MORGAN HILL – MAST STREET PUD DISTRICT AMENDMENT)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

- SECTION 1.** The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.
- SECTION 2.** The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.
- SECTION 3.** This action is categorically exempt from environmental review under Section 15305 of the State CEQA Guidelines.
- SECTION 4.** The City Council hereby approves the PUD and PUD provisions for the 2.94-acre site, as contained in the attached Exhibit “A.”
- SECTION 5.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.
- SECTION 6.** Effective Date; Publication. This Ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 19th Day of October 2005, and was finally adopted at a regular meeting of said Council on the Day of November 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES:	COUNCIL MEMBERS:	Larry Carr, Mark Grzan, Dennis Kennedy, Greg Sellers, Steve Tate
NOES:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	None

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1741, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of November 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

EXHIBIT A

199 MAST STREET PLANNED UNIT DEVELOPMENT

Area

The PUD area is shown on the attached map and consists of Assessor Parcel Number 817-02-064.

Objective

This PUD will facilitate the development of a concrete batch plant and other industrial uses as specified below at the subject site.

Allowable Uses

Permitted

The following uses shall be permitted in the PUD:

- All permitted uses in the MG zoning district; and
- Concrete batching plants;

Conditional

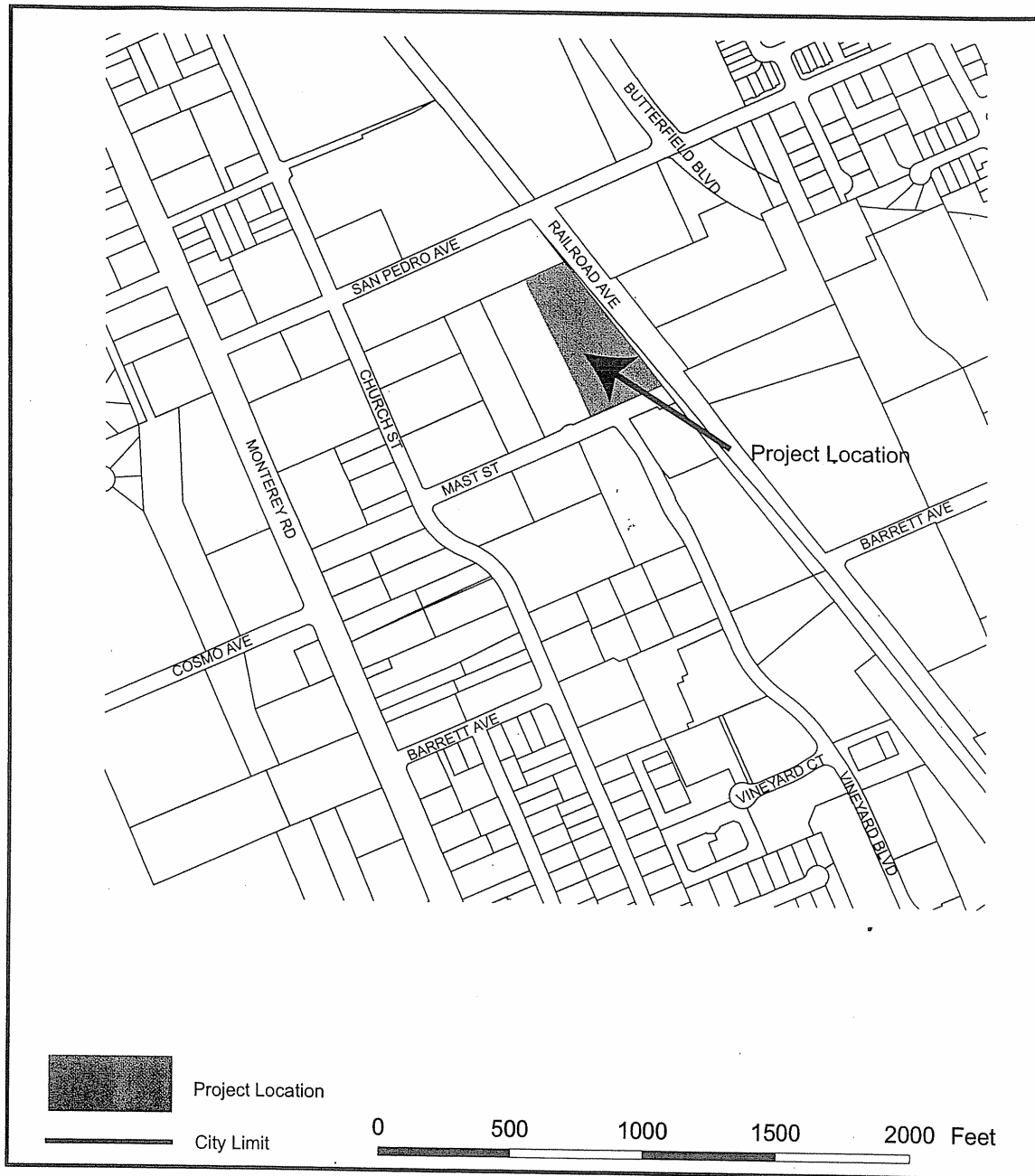
The following uses may be conditionally allowed in the PUD, subject to issuance of a conditional use permit in accordance with Chapter 18.54 of the Morgan Hill Municipal Code:

- All uses conditionally permitted in the MG zoning district, except that concrete batching plants shall be a permitted use.

Development Standards

Future development of the PUD area shall comply with the site development standards of the MG, General Industrial Zoning District in effect at time of application, with the following exceptions:

1. Concrete batch plant silos are allowed to be constructed up to a maximum height of 70 feet. All other structures shall comply with the maximum height standard for the MG, General Industrial District.
2. A dust management plan shall be submitted by the project proponent of any proposed concrete batch plant for review and approval by the City of Morgan Hill.
3. Truck traffic related to any proposed concrete batch plant shall be generally restricted to non-residential streets for commercial deliveries. Use of residential streets shall be permitted for residential deliveries. For the purposes of this performance standard, the segment of Church Street between Mast Street and San Pedro Avenue is not considered a residential street.



PROJECT LOCATION EXHIBIT

ZA-05-06: City of Morgan Hill -
Mast St. PUD District Amendment
APN 817-02-064



R:\PLANNING\Maps\Illustrat

ility Maps\Zoning Amendment\ Za-05-06 City of Morgan Hill-Mast St. PUD District Amendment.pdf



CITY COUNCIL STAFF REPORT

MEETING DATE: November 2, 2005

Agenda Item # 9

Prepared By:

Deputy City Clerk

Approved By:

City Clerk

Submitted By:

City Manager

ADOPT ORDINANCE NO. 1742, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1707, NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-04-02: Monterey – South County Housing (Royal Court) (APNs 764-12-008, -009, -018, & -019) (DAA-04-07: MONTEREY – SOUTH COUNTY HOUSING (ROYAL COURT))

RECOMMENDED ACTION(S):

Waive the Reading, and **Adopt** Ordinance No. 1742, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

EXECUTIVE SUMMARY:

On October 19, 2005, the City Council Introduced Ordinance No. 1742, New Series, by the Following Roll Call Vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

FISCAL IMPACT:

No budget adjustment required.

ORDINANCE NO. 1742, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1707, NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-04-02: MONTEREY – SOUTH COUNTY HOUSING (ROYAL COURT) (APNs 764-12-008, -009, -018, & -019) (DAA-04-07: MONTEREY – SOUTH COUNTY HOUSING (ROYAL COURT))

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No. 04-41, adopted April 13, 2004, has awarded allotments to a certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MP-04-02: Monterey – South County Housing (Royal Court)	54 units (Fiscal Year 2005-06)

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill.

These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to is amended by this ordinance and shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. The City Council hereby finds that the development agreement amendment approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 6. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

SECTION 9. MODIFICATION TO DEVELOPMENT SCHEDULE. The Council hereby approves an amendment to the development schedule for the Royal Court project, as attached in Exhibit A, and by this reference incorporated herein.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 19th Day of October 2005, and was finally adopted at a regular meeting of said Council on the Day of November 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1742, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of November 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

EXHIBIT A

**FY 2005-06 DEVELOPMENT SCHEDULE
MP-04-02: MONTEREY – SOUTH COUNTY HOUSING**

I. SUBDIVISION AND ZONING APPLICATIONS

Applications Filed: September 13, 2004

II. SITE REVIEW APPLICATION

Application Filed: September 13, 2004

III. FINAL MAP SUBMITTAL

Map, Improvements Agreement and Bonds: **~~February 28, 2005~~ April 29, 2005**

IV. BUILDING PERMIT SUBMITTAL

Submit plans to Building Division for plan check: **~~July 1, 2005~~ September 30, 2005**

V. BUILDING PERMITS

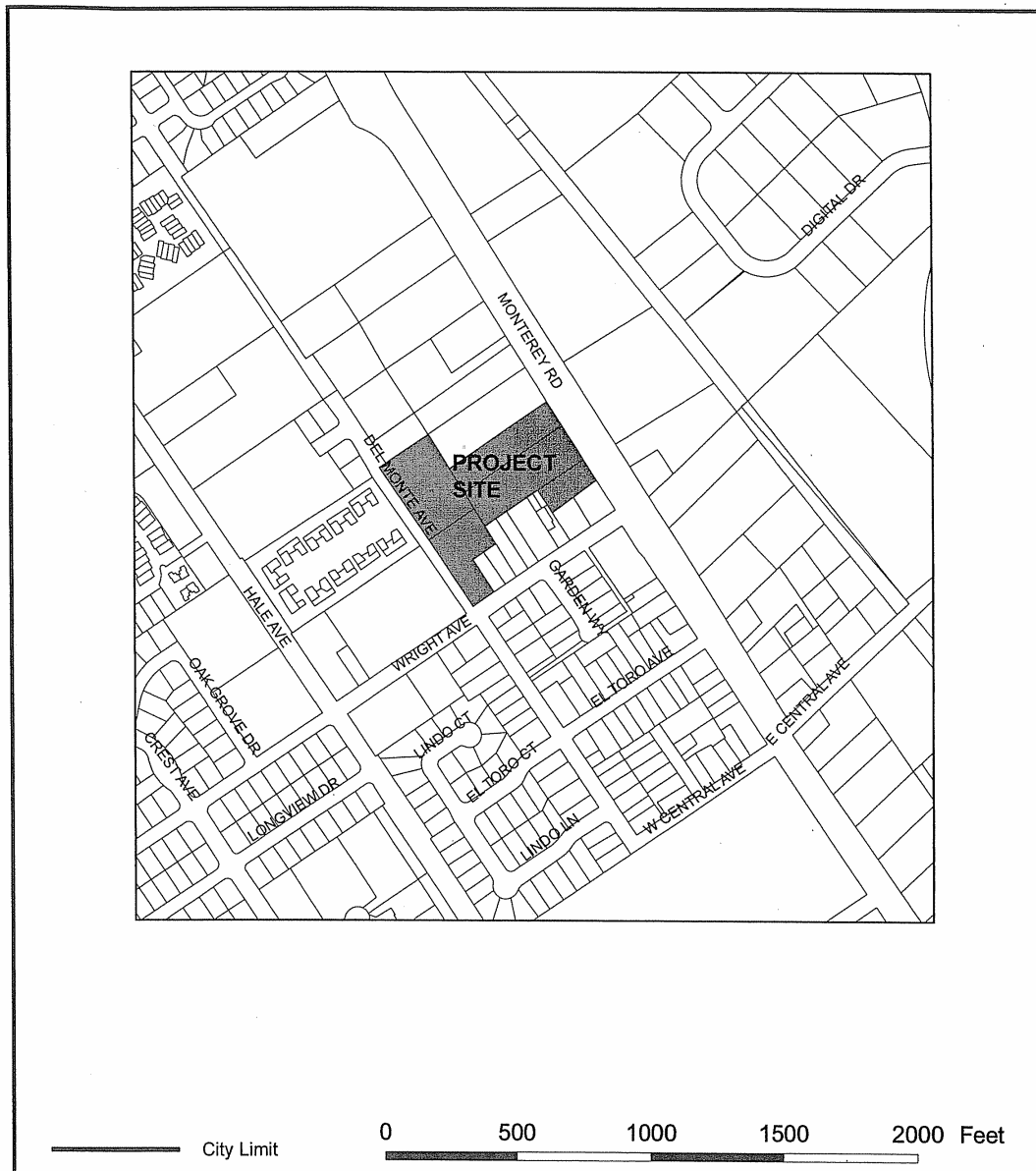
Obtain Building Permits: **~~September 13, 2005~~ April 30, 2006**

Commence Construction: June 30, 2006

Failure to obtain building permits and commence construction by the dates listed above, shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit six (6) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 28 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.



CITY OF MORGAN HILL
Prepared by Community Development Department

R:\PLANNING\Maps\Illustrator

VICINITY MAP

DAA-04-07: Monterey-South County Housing

Vicinity Maps\Development Agreement Amendments\DAA-04-07: Monterey-South County Housing





CITY COUNCIL STAFF REPORT

MEETING DATE: November 2, 2005

Agenda Item # 10

Prepared By:

Deputy City Clerk

Approved By:

City Clerk

Submitted By:

City Manager

ADOPT ORDINANCE NO. 1743, NEW SERIES, AS AMENDED

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTION 18.04.245 OF THE MORGAN HILL MUNICIPAL CODE, ELIMINATING THE STREET FRONTAGE REQUIREMENT TO THE LOT DEFINITION, AND AMENDING SECTION 18.050.200, ELIMINATING THE RESTRICTION ON TANDEM PARKING FOR REQUIRED PARKING SPACES IN THE R-2, R-3, R-4 AND CC/R ZONING DISTRICTS. (ZA-05-08)

RECOMMENDED ACTION(S):

Waive the Reading, and **Adopt** Ordinance No. 1743, New Series, as amended, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

EXECUTIVE SUMMARY:

On October 19, 2005, the City Council Introduced Ordinance No. 1743, New Series, as amended to change the word "circulation" to "major driveway", by the Following Roll Call Vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

FISCAL IMPACT:

No budget adjustment required.

ORDINANCE NO. 1743, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTION 18.04.245 OF THE MORGAN HILL MUNICIPAL CODE, ELIMINATING THE STREET FRONTAGE REQUIREMENT TO THE LOT DEFINITION, AND AMENDING SECTION 18.050.200, ELIMINATING THE RESTRICTION ON TANDEM PARKING FOR REQUIRED PARKING SPACES IN THE R-2, R-3, R-4 AND CC/R ZONING DISTRICTS. (ZA-05-08)

WHEREAS, the zoning definition of a “lot” is contained in Title 18, Section 18.04.245 of the Morgan Hill Municipal Code; and

WHEREAS, the aforementioned code section defines a lot, among other attributes, as having frontage on an approved public or private street; and

WHEREAS, the requirement to maintain frontage to a street precludes development of townhouse lots in developments at the higher density desired in the downtown; and,

WHEREAS, Section 18.50.200 of the Morgan Hill Municipal Code defines tandem parking and imposes a restriction on the use of such parking for required parking spaces; and

WHEREAS, tandem parking is necessary in higher density residential developments to save space and allow for a more efficient floor plan; and

WHEREAS, testimony and exhibits received at a noticed public hearing having been duly considered,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 18.04.245 of the Morgan Hill Municipal Code is amended to read as follows:

Section 18.04.245 Lot.

"Lot" means a piece or parcel of land owned as a single unit in common ownership, occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory thereto, together with such open spaces as are required by this chapter, and having frontage on and access to an approved and accepted city street which meets the standards of width and improvements as specified in the regulations of the city contained in or adopted pursuant to the subdivision title of this code, and Chapter 18.50 of this title on street improvements as to the frontage of the lot involved, or having frontage on and access to an approved private street *or major driveway aisle for properties that are located in the R-2, R-3, R-4 and CC-R districts.* (Ord. 559 § A (part), 1981)

SECTION 2 Section 18.50.200 of the Morgan Hill Municipal Code is amended to read as follows:

Section 18.50.200 Tandem parking spaces.

Tandem parking spaces will not be acceptable as required spaces *except in the R-2, R-3, R-4 and CC/R districts and only in an enclosed garage*. A "tandem parking space" is a parking space so located that it is necessary to move one or more other vehicles in order to allow the vehicle occupying the tandem space to gain access to or from such space. (Ord. 1415 N.S. § 30, 1998; Ord. 559 N.S. § A (part), 1981)

SECTION 3 Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 4 Effective Date; Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced, as amended, at the regular meeting of the City Council of the City of Morgan Hill held on the 19th Day of October 2005, and was finally adopted at a regular meeting of said Council on the Day of November 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1743, New Series, adopted as amended by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of November 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: November 2, 2005

Agenda Item # 11

Prepared By:

Deputy City Clerk

Approved By:

City Clerk

Submitted By:

City Manager

ADOPT ORDINANCE NO. 1744, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ADDING ARTICLE IV TO CHAPTER 18.54 (CONDITIONAL AND TEMPORARY USE PERMITS) OF TITLE 18 (ZONING) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL, TO ESTABLISH PROVISIONS FOR DOWNTOWN ADMINISTRATIVE USE PERMITS, AND AMENDING SECTION 18.24.030 TO ALLOW FOR ISSUANCE OF SUCH FOR GROUND FLOOR OFFICE AND PERSONAL SERVICE USES LOCATED ALONG MONTEREY ROAD AND THIRD STREET (ZA-05-11)

RECOMMENDED ACTION(S):

Waive the Reading, and **Adopt** Ordinance No. 1744, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

EXECUTIVE SUMMARY:

On October 19, 2005, the City Council Introduced Ordinance No. 1744, New Series, by the Following Roll Call Vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

FISCAL IMPACT:

No budget adjustment required.

ORDINANCE NO. 1744, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ADDING ARTICLE IV TO CHAPTER 18.54 (CONDITIONAL AND TEMPORARY USE PERMITS) OF TITLE 18 (ZONING) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL, TO ESTABLISH PROVISIONS FOR DOWNTOWN ADMINISTRATIVE USE PERMITS, AND AMENDING SECTION 18.24.030 TO ALLOW FOR ISSUANCE OF SUCH FOR GROUND FLOOR OFFICE AND PERSONAL SERVICE USES LOCATED ALONG MONTEREY ROAD AND THIRD STREET

ZA-05-11

WHEREAS, a Downtown Area Plan has been prepared by the City of Morgan Hill, and in order to implement provisions of the Downtown Area Plan, certain zoning ordinance amendments have been adopted by the City Council of the City of Morgan Hill, including amendments to the CC-R Central Commercial/Residential District; and

WHEREAS, due to a desire to encourage ground floor retail uses in the Downtown Area, a CC-R zoning ordinance amendment was adopted which required that office, personal service, and other non-retail uses proposed for downtown ground floor locations obtain a Conditional Use Permit prior to establishment; and,

WHEREAS, a Mitigated Negative Declaration has been adopted and filed for a defined level of future residential, mixed use and non-residential development in the Downtown Area; and

WHEREAS, most office and personal service business uses proposing to establish within downtown area non-residential buildings do not involve the potential for environmental impacts to any higher degree than retail uses; and imposition of applicable mitigation measures from the Negative Declaration that has already been filed for the Downtown Area would be expected to be adequate for most retail, office and personal service uses proposing to locate Downtown; and

WHEREAS, while the City Council of the City of Morgan Hill does wish to encourage retail uses to locate within the ground floor of structures located in the downtown area, the Council also recognizes that certain buildings may not be appropriate for retail uses in terms of design, location and/or other factors; and that the market may not be sufficiently strong to allow for all ground floor space to be put to retail use, and having vacant ground floor space is not beneficial for the Downtown Area.

WHEREAS, due to the fact that most uses locating downtown will not need additional CEQA review, and that offices and personal service uses locating within existing or approved downtown buildings do not typically involve a need for detailed staff review, complex analysis, and structuring of conditions of approval; it is appropriate to reduce the level of review and fee required for proposed ground floor office and personal service uses in the Downtown Area; and

WHEREAS, upon submission by the applicant of sufficient information regarding unfruitful retail recruitment efforts and/or upon city staff site visit and determination that a ground floor space is not generally suitable for retail use, the City Council believes that an administrative use permit process with action by the Community Development Director will adequately balance the city's objective for retail uses with the reality that either a building is not appropriately designed and/or located; and/or the retail market is not sufficiently strong to accommodate a retail use, and therefore that ground floor office or personal service uses may be allowed; and

WHEREAS, adoption of this ordinance to allow for Administrative Use Permits rather than Conditional Use Permits for office and personal service uses located along Monterey Road and Third Street in the downtown area is categorically exempt under Class 15305, Minor Alterations in Land Use Limitations.

NOW THEREFORE, IN CONSIDERATION OF THE FOREGOING, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AND ENACT AS FOLLOWS:

Section 1. CC-R Central Commercial/Residential District. Section 18.24.030 (Conditional Uses for first floor locations on parcels fronting on Monterey Road or Third Street) of Title 18 (Zoning) is hereby amended to read as follows:

18.24.030 Conditional Use Permit and Downtown Administrative Use Permit for uses for first floor locations on parcels fronting on Monterey Road or Third Street.

The following uses may be conditionally allowed in the CC-R district on first floor locations on parcels fronting on Monterey Rd. or Third St., subject to issuance of a conditional use permit in accordance with Chapter 18.54 of this title and finding of consistency with the Downtown plan:

- A. Residential units;
- B. Convenience Markets/Stores;
- C. Drive-in Establishments;
- D. Commercial Indoor Recreation.

The following uses may be allowed in the CC-R district on first floor locations on parcels fronting on Monterey Rd. or Third St., subject to issuance of a Downtown Administrative Use Permit in accordance with Article IV of Chapter 18.54 of this title:

- A. Commercial, Professional and Medical Office uses;
- B. Personal Services

Section 2. Downtown Administrative Use Permit. Article IV of Chapter 18.54 of Title 18 (Zoning) is hereby amended to add the following section:

Article IV. Downtown Administrative Use Permits

- 18.54.240 Purpose of permits.
- 18.54.250 Application—Contents.
- 18.54.260 Application Process.
- 18.54.270 Evaluation, Conditions and Findings.

18.54.240 Purpose of permits. The purpose of Downtown Administrative Use Permits is to allow for Commercial, Professional and Medical Office uses, and Personal Services uses, to locate in first floor locations on parcels that front Monterey Road or Third Street, upon a determination that a building is not appropriately designed and/or located, and/or the retail market is not sufficiently strong, to accommodate a retail use, and therefore that ground floor office or personal service uses may be allowed.

18.54.250 Application—Contents. An application for a Downtown Administrative Use Permit (DAUP) shall be made by the property owner or agent thereof, on a form issued by the Community Development Department. An application shall be accompanied by the following information *except as may be waived by the Community Development Director for proposed uses in existing structures*:

- A. Vicinity map;
- B. Site plan;
- C. Floor plan;
- D. Building elevations for facades along Monterey Avenue and Third Street;
- E. Signing and landscape plan;
- F. Statement of proposed operations, including but not limited to number of employees and proposed hours of operation.
- H. Either one or both of the following:
 - i. A statement that the building is not designed and/or located appropriately to accommodate retail use(s); or
 - ii. Materials which demonstrate that the subject space in the building has been advertised for lease to retail tenants for at least 90 days, but the owner has been unable to locate a suitable retail tenant at market rates.
- I. Other materials as required by the Community Development Department.

18.54.260 Application Process.

- A. An application for a Downtown Administrative Use Permit shall be filed with the Community Development Department, in a form prescribed by the Community Development Director. After an application is deemed complete by the Community Development Department, such application shall be routed to affected City departments for comments.

- B. The Department shall notify by mail the applicant and owners of property located within 300 feet of the proposed site of the proposed use and application for a Downtown Administrative Use Permit, at least ten days prior to the scheduled date for decision by the Department, in order to receive comments. The Department should also notify the Chamber of Commerce and other organizations with a known interest in Downtown Morgan Hill.
- C. After the notice period has occurred and comments have been considered, the Community Development Director will take action on the DAUP. Appeals of the decision of the Community Development Department shall be filed within 10 days, and appeals shall be considered by the Planning Commission at a noticed public hearing. Appeals of the decision of the Planning Commission shall be filed within 10 days, and appeals shall be considered by the City Council at a noticed public hearing. The decision of the City Council shall be final.

18.54.270 Evaluation, Conditions and Findings.

Evaluation. The Community Development Director or designee shall evaluate the application for consistency with the following criteria:

- 1. The suitability of the site and building for the proposed use;
- 2. The impact of the use on the surrounding properties, and on the CC-R District in general.
- 3. The impact of the use on traffic circulation and planned capacity of the street system.
- 4. The compatibility of the use and design with adjacent uses within the district and its surroundings;
- 5. Whether the use will adversely affect the peace, health, safety, morals or welfare of persons residing or working in the vicinity of the use;
- 6. Whether the use will impair the utility or value of property of other persons located in the vicinity of the site;
- 7. The applicability and conformity of the use with provisions of Chapter 8.40, hazardous materials, as existing or hereafter amended;
- 8. Review of the building with regard to suitability of design and location for accommodation of first floor retail use(s);
- 9. Review of materials submitted by the applicant and determination that the subject space in the building has been advertised for lease to retail tenants for at least 90 days, but the owner has been unable to locate a suitable retail tenant at market rates;
- 10. Whether the use will provide a public benefit to the City and its citizens.

Conditions. The Community Development Director may impose reasonable conditions on an approval of a Downtown Administrative Use Permit. Conditions may include, but shall not be limited to, conditions requiring a review of the use at some future time or upon certain triggering event(s); conditions providing for expiration of the Administrative Use Permit at some future time or upon certain triggering event(s); conditions imposing requirements for site maintenance and/or improvements; conditions requiring installation and maintenance of landscaping, regulation of vehicular ingress and egress, traffic circulation, regulation of signs, establishment of development

schedules or time limits for performance or completion, and/or any other conditions as deemed necessary by the Community Development Director.

Findings. Approval of and issuance of the Downtown Administrative Use Permit shall be subject to the Community Development Director making one or more of the following findings:

1. The building is not designed and/or located appropriately to accommodate retail use(s); and/or
2. The subject space in the building has been advertised for lease to retail tenants for at least 90 days, but the owner has been unable to locate a suitable retail tenant at market rates.

Section 3. **Severability.** Should any provision of this ordinance be deemed unconstitutional or unenforceable by a court of competent jurisdiction, such provision shall be severed from the ordinance, and such severance shall not affect the remainder of the ordinance.

Section 4. **Effective Date; Posting.** This ordinance shall take effect thirty (30) days after its second reading. This ordinance shall be posted at City Hall.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 19th Day of October 2005, and was finally adopted at a regular meeting of said Council on the Day of November 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ **CERTIFICATE OF THE CITY CLERK** ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,
do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1744, New Series,
adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the
Day of November 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

**CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR CITY COUNCIL
AND SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES – OCTOBER 19, 2005**

CALL TO ORDER

Mayor/Chairman Kennedy called the special meeting to order at 6:00 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Grzan, Sellers, Tate and Mayor/Chairman Kennedy

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

Interim City Attorney/Agency Counsel Siegel announced the below listed closed session items:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Government Code Sections 54956.9(b) & (c)
Number of Potential Cases: 3

2.

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Authority: Government Code Section 54956.8
Property: 1505 Fieldshire Way, APN: 728-15-001
Agency Negotiators: Agency Director, Interim Agency Counsel, Director of Business Assistance & Housing Services
Parties: Lisa I. Corona
Under Negotiation: Price, Terms of Payment

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/Chairman Kennedy opened the Closed Session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor/Chairman Kennedy adjourned the meeting to Closed Session at 6:02 p.m.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 7:03 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/Agency Counsel Siegel announced that no reportable action was taken in closed session.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Mayor/Chairman Kennedy, Chief of Police Cumming led the Pledge of Allegiance.

RECOGNITIONS

Mayor Kennedy presented Santa Clara County Fire Chief Ben Lopes with a Certificate of Recognition in honor of Santa Clara County Fire Department being awarded Accreditation by the Commission of Fire Accreditation International. Santa Clara County Fire Department has been given this esteemed accreditation in recognition of their outstanding performance in meeting or exceeding all applicable criteria.

Mayor Kennedy presented Michelle May with a Certificate of Recognition for an *Act of Heroism* for performing the Heimlich maneuver on a child choking on food at P.A. Walsh Elementary School.

Mayor Kennedy announced the Certificate of Recognition for an *Act of Heroism* to Mr. David Ward (not present at this time) for pulling passengers from a burning vehicle.

CITY COUNCIL REPORT

Council Member Grzan addressed the following:

- Serves on the Financial Policy Committee along with Mayor Pro Tempore Tate and staff. He stated the City will soon receive a packet of information that will assist with the Community Conversation. The Committee has begun identifying community groups and other members in the community to assist with the process; working through a plan that will have the community participate in the decision making. It is his hope that this will be a value driven undertaking and the community will identify the future direction of the City.
- Recently attended the League of California Cities annual conference in San Francisco. He stated that many workshops on budget, financing, and other issues pertinent to Morgan Hill were held. He attended the session presented by City Manager Tewes and learned a lot from a panel of experts. It was his belief that the information he received from the City of San Mateo will assist in shaping the “community conversation.” He perused the vendor fair and had a chance to look at

everything from software management systems to permeable concrete. He felt that conferences such as these are of great value to elected and appointed officials.

- Met with a group of residents who have taken a great interest in restoring Little Llagas Creek and developing a wildlife sculpture trail along its banks. The City Council has approved a wildlife area adjoining the new indoor recreation center and with an action before the Council this evening, the City will move forward with its initial design. Local artists have indicated a willingness to conduct a national competition to be held in Morgan Hill about wildlife sculpture with the proceeds to be used to purchase additional sculpture and to fund organizations such as the Wildlife Education and Rehabilitation Center.
- The Utilities & Environment Committee recently met with local residents on water pressure. Committee members received a wonderful report and presentation from Public Works staff on the City's 19 pressure zones. He said that some residents may be at risk with high water pressure in areas along the western and eastern slopes of the community. The Committee continues to work with staff and residents on these issues. The Committee continues to discuss energy aggregation and that it is his hope to return to the Council with an update soon. Committee is looking at alternative(s) to the one gallon jug oil recycling containers; and the adoption of a natural native California landscaping policy for new and renovated City facilities. The Council and the community will have an opportunity to look at and review an exhibit garden outside city hall in the near future.
- The Council's inaction on the recent cell tower is a concern. Although the Council voted to send the cell tower issue back to the Utilities & Environment Committee for further clarification, the Committee asked the Council to consider imposing a moratorium as the City does not have a policy in place to provide sufficient direction. He felt the reliance on past practice places the City at risk and does not provide for the application of a consistent policy or addresses the public's concern as to the placement/aesthetics of cell towers. He acknowledged that the FFC recently ruled that health concerns are sole reasons to disapprove the placement of cell towers. He said that many noted experts, as recently as 2004; indicate that the studies today are insufficient. The Committee will address the cell tower issue in an expeditious manner; reporting back to the Council as soon as possible.

Council Member Sellers said that at the League of California Cities' Conference, Council members took a look at activities being undertaken by other cities. He said that it became apparent, at the conference and in hearing a presentation at the Institute for Local Governance and other speakers, that the Community Conversation the City will be undertaking is innovative and is more extensive than any other cities have undertaken. He felt that this is a great process to undertake and that should the community conversation be a success, it will be something that many other cities will want to replicate in future years. He said that it was important to note the efforts of staff and the City Manager who thought about innovative ways of having this community conversation. He commended staff for thinking outside the box and the City for undertaking a very innovative endeavor.

CITY MANAGER REPORT

City Manager Tewes indicated that he did not have a special report to present this evening.

CITY ATTORNEY REPORT

Interim City Attorney Siegel stated that he did not have a report to present this evening.

PUBLIC COMMENT

Mayor/Chairman Kennedy opened the floor to public comment for items not appearing on this evening's agenda. No comments were offered.

RECOGNITIONS (Continued)

Upon arriving to the meeting, Mayor Kennedy presented David Ward with his Certificate of Recognition for an *Act of Heroism*.

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Mayor Kennedy requested that item 2, Mayor Pro Tempore Tate requested that item 14 and Council Member Grzan requested that item 15 be removed from the Consent Calendar.

Action: *On a motion by Council/Agency Member Carr and seconded by Council/Agency Member Grzan, the City Council/Agency Board unanimously (5-0) **Approved** Consent Calendar Items 1, 3-13, and 16-18, as follows:*

1. **INDOOR RECREATION CENTER PROJECT – SEPTEMBER CONSTRUCTION PROGRESS REPORT**
***Action:** **Information** Only.*
3. **THIRD AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF HATCH & PARENT**
***Action:** **Authorized** the City Manager to Execute a Third Amendment to the Agreement with the Law Firm of Hatch & Parent.*
4. **SECOND AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF PRESTON, GATES & ELLIS, LLP**
***Action:** **Authorized** the City Manager to Execute a Second Amended Agreement with the Law Firm of Preston, Gates & Ellis, LLP.*
5. **PAYMENT TO SANTA CLARA COUNTY FOR VEGETATION ABATEMENT ON CITY-OWNED PROPERTY**

Action: **Approved** *Payment in the Amount of \$33,847.19 for Vegetation Abatement.*

6. **ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 9617, CAPRIANO PHASE VI**
Action: 1) **Adopted** *Resolution 5959, Accepting the Subdivision Improvements Included in Tract 9617, Commonly Known as Capriano Phase VI; and 2) **Directed** the City Clerk to File a Notice of Completion with the County Recorder's Office.*
7. **FINAL MAP APPROVAL FOR THE RANCH AT ALICANTE (TRACT 9716)**
Action: 1) **Approved** *the Final Map, Subdivision Agreement and Improvement Plans; 2) **Authorized** the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; and 3) **Authorized** the Recordation of the Map and the Subdivision Improvement Agreement, Following Recordation of the Development Improvement Agreement.*
8. **PUBLIC WORKS ASPHALT MAINTENANCE AGREEMENT FOR FISCAL YEAR 2005-2006**
Action: 1) **Approved** *New Maintenance Agreement for Annual Miscellaneous Pavement Repair Services; and 2) **Authorized** the City Manager to Execute the Agreement on Behalf of the City; Subject to Review and Approval by the City Attorney.*
9. **WILDLIFE TRAIL DESIGN CONTRACT**
Action: **Authorized** *the City Manager to Execute an Agreement with Bellinger Foster Steinmetz, in an Amount not to exceed \$40,450, for the Development of Construction Documents and Construction Oversight for the Morgan Hill Wildlife Trail; Subject to Review and Approval by the City Attorney.*
10. **DEPOT STREET SEWER REPLACEMENT PROJECT**
Action: 1) **Awarded** *Contract to D'Arcy & Harty Construction, Inc. for the Construction of the Depot Street Sewer Replacement Project in the Amount of \$382,940; Subject to Review and Approval by the City Attorney; 2) **Authorized** the Expenditure of Construction Contingency Funds not to Exceed \$38,294; and 3) **Appropriated** \$117,000 From the Unappropriated Sanitary Sewer Rehabilitation Fund (643).*
11. **AWARD OF PROFESSIONAL SERVICES CONTRACT FOR SEWER INFILTRATION INVESTIGATION IN THE ATHERTON AREA**
Action: **Authorized** *the City Manager to Execute a Consultant Agreement with V&A Consulting Engineers, Inc. for Sewer Infiltration Investigation in the Atherton Area in the Amount of \$28,600; Subject to Review and Approval by the City Attorney.*
12. **ESTABLISH NEW CLASSIFICATION AND SALARY RANGES**
Action: 1) **Adopted** *the New Job Description and Salary Range for the Position of Public Safety Dispatcher Supervisor; 2) **Abolished** the Lead Public Safety Dispatcher Position; 3) **Reclassified** and **Established** New Salary Range for Property/Evidence Technician; 4) **Changed** the Title of Police Lieutenant to Police Commander; 5) **Established** Salary Range for Special Assignments*

*for Senior Planner Position; and 6) **Reclassified** the Vacant Associate Planner Position to Senior Planner Position.*

13. PURCHASE OF POLICE VEHICLES

Action: *1) **Authorized** the Purchase of Four (4) Vehicles from The Ford Store through reliance upon the Competitive Bid Process by the City of Gilroy, for a Total Cost of \$91,069.85; and 2) **Declared** Four (4) Vehicles being replaced as Surplus and **Authorized** the Sale of these Vehicles at Auction.*

16. ADOPT ORDINANCE NO. 1740, NEW SERIES

Action: ***Waived** the Reading, and **Adopted** Ordinance No. 1740, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE ZONING DESIGNATION FROM ML, LIGHT INDUSTRIAL, R-2 (3500) RESIDENTIAL AND CG, GENERAL COMMERCIAL TO CC-R, CENTRAL COMMERCIAL/RESIDENTIAL FOR TWENTY NINE PARCELS TOTALING 13.25 ACRES LOCATED AT THE SOUTHEAST CORNER OF EAST DUNNE AVENUE AND CHURCH STREET AND SOUTH SIDE OF EAST OF DUNNE AVENUE BETWEEN MONTEREY ROAD AND CHURCH STREET NORTH OF BISCEGLIA AVENUE. (APNS 817-01-018 thru 022, 026, 031 thru 039, 045, 046, 050, 051, 053 thru 057, 059 thru 064).***

17. SPECIAL CITY COUNCIL MINUTES OF SEPTEMBER 30, 2005 MEETING

Action: ***Approved** as Submitted.*

18. JOINT REGULAR AND SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF SEPTEMBER 30, 2005

Action: ***Approved** as Submitted.*

2. DOWNTOWN TRAFFIC CALMING – THREE MONTH REVIEW AFTER JUNE 2005 INITIAL INSTALLATION

Mayor Kennedy requested a brief report on this item.

Director of Public Works Ashcraft indicated that in June 2005, the Council approved an expenditure of \$75,000 to install initial traffic calming measures in the downtown area. He indicated that the purpose of the report is to highlight the success of these measures in terms of traffic reduction and/or reduction in speed. He informed the Council that after approximately four months of having the traffic cushions and crosswalks installed at Third Street, both north and south directions, reducing the travel lanes from 12 feet to 10.5 feet, increasing the visibility of the crosswalks at First Street, and increasing landscaping in the medians near Fourth Street, the report shows that there has been no drop in traffic volumes. In terms of speed, on average, he stated that there has been very little change in speed. He said that the traffic cushions lowered speeds through the crosswalks. However, there have been four accidents attributed to the speed bumps: three rear end accidents, none which caused major injuries; and one where a trailer

came off its hitch. He indicated the City received a claim for the trailer hitch accident. He stated that staff believes the speed cushions have substantially reduced speed at Third Street. However, staff is concerned about accident history. Therefore, staff would like to have another three months to evaluate the measures in place before taking any action to add or remove traffic calming measures. He informed the Council that he has spoken to traffic engineers about how many accidents it would take to consider the speed cushions a hazard and that it has been suggested that five accidents in one year may warrant a different type of traffic control measure.

Mayor Kennedy inquired whether there was a different speed cushion design that would allow a slightly higher speed. He felt it intuitive that these speed bumps are not intended for the posted speed limit.

Director of Public Works Ashcraft informed the Council that this design is a fire department friendly design that allows wide wheel based vehicles to drive without having to slow down. He stated that the speed bumps were tested extensively by staff before recommending their installation to the Council. He was not sure whether another vendor would make a lower (height) speed cushion. However, it was his belief that the affect of a lower speed cushion would tend to raise the speed.

Mayor Kennedy felt that this particular speed cushion causes typical drivers to drive slower than the posted 25 mph to avoid a rattling/jarring motion. He supported an alternative measure that would satisfy the objective. He inquired whether the City has warning signs that announces a reduced speed zone ahead. If not, he recommended they be installed as they would result in minimal cost to the City.

Director of Public Works Ashcraft said that installation of warning signs is not substantial, in terms of cost. However, there would be a question of sign proliferation. He felt studies would show that warning signs would not result in a reduction in speed.

Council Member Grzan said that should there be three to four vehicles proceeding across Dunne Avenue in close proximity to each other, the second and/or third vehicle may not realize that a speed bump is approaching. He felt that speed cushions are problematic and jarring, but does not know of an alternative solution at this time.

Mayor Kennedy opened the floor to public comment.

Gary Walton stated his support of the speed bumps as they have done the job of reducing speed in the downtown area. He felt the best way to slow traffic down in the downtown is to reduce Monterey Road to one lane. He noted that there have been a number of deaths in the downtown and that one of the downtown planters has been destroyed. He felt it important to reclaim main street in the downtown. He felt citizens would realize speed cushions are in place, with time. He requested the City revisit the possibility of narrowing the lane as this may also increase street parking by 30%. He applauded the City for doing the right thing and felt that slowing traffic down will maintain the City's rural character.

Leslie Miles said that she has noticed, over the past 5-6 years, speed of traffic has increased in the downtown to a point where an individual cannot cross at crosswalks. She felt that speed bumps create an environment such that individuals are aware of their surroundings, created a different environment, and

is substantially safer crossing Monterey Road. She said that there are opportunities to look for additional or different traffic calming measures. She applauded the public works department for going through the lengths of establishing these traffic calming measures. She requested the City retain the speed bumps. If not, the City looks at a different, but better solution.

Dan Craig, Executive Director for the Downtown Association, stated that speed bumps are considered a safety feature to the pedestrian environment in the downtown. He felt that they give pedestrians a fighting chance to compete against automobiles. He noted that a fundamental goal of the Downtown Plan is to create a pedestrian environment. He felt the community is moving toward this end with sidewalk dining. Before the installation of speed bumps, pedestrians would be waiting and hedging toward crossing Monterey Road. He agreed that speed bumps jog individual's mindset and has created a heightened awareness of the pedestrian downtown. He recommended Council consider installation of similar speed cushions at First Street.

No further comments were offered.

Mayor Kennedy noted that this is an informational item. He proposed the following interim solutions: 1) installation of "reduced speed zone ahead" signs as they can be installed at a minimal cost and would provide additional warning; and 2) installation of a second speed bump/crosswalks, at First Street. Staff to return with a budget appropriation for Council consideration at a future meeting. He acknowledged that these are band aid solutions. He felt the long term solution would be to narrow Monterey Road to one lane, in each direction, in order to make the downtown a pedestrian destination. However, funding would be needed to make it work; including funding to extend Butterfield Boulevard south to Monterey/Watsonville Road and Monterey Road to the north so that there is an alternative route for trucks and other traffic to bypass the downtown. He noted that the Council will be looking at extending the Redevelopment Agency and is putting together a list of projects that are necessary for the community. He recommended that two of these projects be the extension of Butterfield to the north and south; and the redesign/narrowing of Monterey Road in order to make it a one lane pedestrian oriented downtown. He requested that this be brought back to the Council, including interim measures, as soon as possible.

Mayor Pro Tempore Tate stated that he was not prepared to discuss Mayor Kennedy's proposal this evening as this was an informational item. He stated that he is in accord with staff's recommendation to extend the trial period for three months. He said that adding speed bumps may double the problem, if there are problems with the speed cushions. He indicated that he would like to give thought to Mayor Kennedy's suggestion and take them under advisement. He would not support taking any other actions other than staff's recommended action this evening.

Council Member Sellers felt speed bumps could be considered as place holders. He said that any action that might be undertaken in the future would only be placeholders. What will slow traffic in the downtown is a lot more traffic, active businesses, and residents. He noted the City is on its way to putting this together. Once the City creates a "place," traffic will go at a slower pace as is seen in Los Gatos, Willow Glen and other successful downtown communities. He said that this would be the time to consider adding additional parking and proceed with other items. He said that it is a difficult transition

because Monterey Road was a former freeway; a significant thoroughfare. It could be that Monterey Road is still considered a main arterial. He concurs that it would be important to wait another three months to see if the City continues to have accidents/issues. He felt the City needs to make sure that its focus remains on building the community of the downtown as this would be what ultimately gives the City the slowing of traffic desired.

Mayor Kennedy agreed that the third step in creating a viable pedestrian downtown through housing and people in the downtown, as well as having additional businesses.

Action: **Information** *Only at this time.*

14. REPLACEMENT PURCHASE OF A POLICE VEHICLE

Mayor Pro Tempore Tate noted that this item is a request to replace a police car that was burnt. He requested a briefing on the City's insurance policy. He felt that when something is only 1% used, it should be replaced by the manufacturer. However, he was not sure whether it has been determined what caused the fire. He did not understand why the City should be out of pocket for something that should be under warranty.

Commander Booten informed the Council that the City has been provided with an arson investigator by ABAG. Staff is awaiting the investigation report and that it was her belief that the report would be completed within a week or so. She indicated that in a police car, you are not only looking at the manufacturer of the vehicle, but also looking at the company that installed the wiring. She felt that there may be some finger pointing between the two. In the meantime, the City needs to replace the vehicle.

Mayor Kennedy opened this item to public comment. No comments were offered.

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0): 1) **Authorized** the Vehicle Purchase and Police Equipment Build Out through The Ford Store Morgan Hill for the Vehicle Identified in the Staff Report for a Total Cost of \$23,517.70; and 2) **Approved** a \$13,518.00 Budget Increase in the Equipment Replacement Fund for the Portion of the Replacement Cost over the Insurance Deductible that will be Financed with the Insurance Proceeds or other Reimbursements.*

15. FINDINGS FOR BUILDING PERMIT FEES CHARGED FOR INSTALLATION OF A SOLAR – ELECTRIC PHOTOVOLTAIC ROOF SYSTEM

Council Member Grzan said that in looking at the staff report, he noted that rates are high for Morgan Hill. He inquired whether the Council would like to consider an incentive for individuals who install solar electric devices to encourage energy conservation. He felt it appropriate for a Council committee to review this as a potential item for Council consideration. He said that as a member of the Utilities & Environment Committee, he would agree to review potential incentives for the community.

Council Member Sellers noted that the staff report indicates that the City of Oakland has significantly lower fees in place versus the other cities surveyed. He recommended the Utilities & Environment Committee look at the City of Oakland's policy as a starting point.

Action: *By consensus, the Council **Took No Action;** Information Only. (However, agreed to refer the item to the Utilities & Environment Committee.)*

Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Agency Member Carr and seconded by Agency Member Grzan, the Agency Board unanimously (5-0) **Approved** Consent Calendar Items 19-21, as follows:*

19. **SALE OF BELOW MARKET RATE (BMR) HOME LOCATED AT 324 VIA NAVONA**
Action: *1) **Authorized** use of up to \$20,000 to Complete any Necessary Repairs for this BMR Unit; and 2) **Authorized** Staff to Sell this BMR Unit to a Median Income BMR Buyer at the Established Median Income BMR Home Price.*
20. **LOAN TO COMMUNITY SOLUTIONS FOR THE REHABILITATION OF THE LA CASA DEL PUENTE TRANSITIONAL SHELTER FOR THE MENTALLY DISABLED**
Action: *1) **Approved** a Loan of up to \$102,000 under the Redevelopment Agency's Housing Rehabilitation Loan Program to Community Solutions; and 2) **Authorized** the Executive Director to do Everything Necessary to Prepare and Execute Loan Documents.*
21. **AUTHORIZATION TO APPLY FOR AND ACCEPT A CALIFORNIA HOUSING FINANCE AGENCY (CalHFA) HELP LOAN FOR HOUSING PROJECTS – MHRA-258**
Action: *1) **Adopted** Resolution No. MHRA-258, Authorizing the Executive Director to Apply to the California Housing Finance Agency (CalHFA) "HELP" Program for a Loan of up to \$1 Million Dollars; and 2) **Authorized** the Executive Director to do Everything Necessary to Accept and Execute the Loan with CalHFA, if Awarded.*

City Council Action (Continued)

CONSENT CALENDAR:

Mayor Kennedy requested that item 22 be removed from the Consent Calendar. He stated that he would be abstaining from this item as he had taken a position not to support this action earlier, and that he wanted to remain consistent with his previous action.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Carr, the City Council, on a 4-0-1 vote with Mayor Kennedy abstaining, **Approved** Consent Calendar Item 22, as follows:*

22. ADOPT ORDINANCE NO. 1739, NEW SERIES

Action: Waived the Reading, and Adopted Ordinance No. 1739, New Series, and Declared That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL PRE-ZONING 19.87 ACRES FROM COUNTY OF SANTA CLARA AGRICULTURAL ZONING (A-20) TO PLANNED UNIT DEVELOPMENT (PUD) ZA-05-10: CONDIT-KUBO (APN 728-17-011, -024, -025).

City Council Action

PUBLIC HEARINGS:

Community Development Director Molloy-Previsich presented the staff report on a city-initiated zone change, on behalf of Associated Concrete, in order to facilitate the relocation of their existing facility from the downtown area to an industrial district. Doing so would allow for future residential development on the existing site per the Downtown Plan; a use more compatible for the downtown versus a concrete batching plant. She informed the Council that the potential relocation site consists of approximately 3 acres located on the northwest corner of Mast and Railroad Avenue. The Planned Unit Development would make concrete batching plants a permitted use on the site and would allow silos up to 70 feet in height. While a permitted use in the PUD district, it is worth noting that any future development application would be subject to site and architectural review as well as CEQA review; including mitigation measures to address any potential impacts. She informed the Council that the City does not have a development application at this time. She informed the Council that the Planning Commission held a public hearing and voted unanimously to recommend Council adoption of the PUD. She indicated that two individuals spoke in opposition to the zoning amendment at the October 11, 2005 Planning Commission meeting expressing concern that batch plants would not be an appropriate use for the site.

Mayor Kennedy opened the public hearing.

Sam Laub informed the Council that he is the property owner of 120 Mast Street and that he was speaking on behalf of Dick Flynn, property owner of 140 Mast Street who is out of state this evening. He felt that the relocation of the use from the downtown was commendable, but felt that the selection of this particular location at Mast-Railroad Avenue is inappropriate. He noted that the Mast Street and Railroad Avenue area is currently zoned light industrial. However, he realizes that Morgan Hill's zoning system does not distinguish between light industrial or heavier industrial uses. Therefore, the City will be distinguishing by means of a PUD. He felt the PUD zoning designation to be inappropriate as it opens up the entire area for future PUDs and that this would be setting a precedent. He felt the City would be creating an undesirable exception. The need to create a special zoning amendment for the PUD indicates that the existing zoning would not permit this particular use. He felt that approval of the zoning amendment would create an enforcement problem. He inquired whether the City could enforce the restriction on cement truck traffic to non residential streets for commercial delivery. Can an owner/applicant affectively supervise drivers to see that they comply with the requirement that they not

use residential streets? Will the City be able to determine that a residential delivery is being made on a residential street? He felt that residents residing on a segment of Church Street, between Mast and San Pedro Avenue, would be surprised to find that their streets are not considered residential for the purpose of a zoning ordinance. He inquired whether the zoning amendment is consistent with the general welfare of the Church Street residents and existing businesses. He did not believe the City would be able to make the finding that the use is consistent with Section 2 of the proposed ordinance.

Brian Bradshaw indicated that his business is located on Mast Street, approximately 300 feet from the proposed relocation of the batching company. His business, a machine shop, cuts metal and precision plastics. He stated that if the City changes the environment in this area, it could disrupt his business as his business requires cleanliness. It was his understanding that a cement yard produces a lot of dust. He has heard that the new system would not generate a lot of dust. However, he felt that truck tires would through rocks at cars behind them. He expressed concern that this would take place on Vineyard Boulevard and that this road would be destroyed and vehicles damaged. He stated that recently, a cement truck rolled over on the corner of Vineyard and Tennant, damaging a street light; resulting in a huge traffic back up. If trucks stop at the railroad tracks or other streets, trucks will start sinking/damaging the road base, resulting in damage to other vehicles.

No further comments being offered, the public hearing was closed.

Ms. Molloy Previsich stated that one of the performance standards in the PUD district would require the submittal of a dust management plan. She said that any future development application would be subject to CEQA. Land use impacts, hazardous materials and air qualities would be addressed at the time a development application is proposed. She recalls that at a prior hearing, the business owner of the concrete batch plant stated that with advancements in technology, any replacement facility would be a lot cleaner and produce less dust than what is being produced by older plants. With regards to the question associated with enforcement, she said that the performance standards require that truck traffic use non residential streets. She clarified that the language in the PUD states that truck traffic should be generally restricted to non residential streets. Therefore, there is no absolute prohibition of using residential streets. The PUD states that the use of residential streets is permitted for residential deliveries. She clarified that the standard within the ordinance would give the City a tool, in the future, should it be needed. She does not envision this to be an enforcement headache unless the operator becomes problematic. She clarified that the primary reason for proposing the zone change is that the Downtown Plan suggests that there would be more appropriate uses in the existing location versus a concrete batching plant. She noted that the suggested location is located in a heavy industrial zoning district. Therefore, there is not another location in town where heavy industrial uses could be located other than this location adjacent to the railroad track in a general industrial zoning district.

Council Member Sellers said that these have always been difficult issues. In the past, the Council has reviewed the issues to determine the appropriate areas of a use in a particular location and whether concerns can be mitigated. He felt that valid concerns were raised. If he did not believe the City could take care of these concerns, he would not be supportive of moving forward. However, he was confident that the Council can resolve concerns based on new technology and specifying routes. He felt the public would still have opportunities to weigh in at time of formal development application submittal.

Mayor Pro Tempore Tate said that concerns expressed would be concerns that could apply to the current location of the batching plant. He noted that the City has not received complaints that problems exist today. He noted that Associated Concrete trucks can be seen all over town and they have served this community for many years. He does not see the problems identified occurring and felt the City has addressed the location as the best location the City has for this type of use.

Council Member Carr stated his concurrence with Mayor Pro Tempore Tate's comments. He said that the City needs to keep in mind that the current owner/operator of Associated Concrete has been in business for several years and has been very involved in the community. He felt the owner would work with the City to make sure that concerns are mitigated.

Mayor Kennedy echoed Mayor Pro Tempore Tate's and Council Member Carr's sentiments. He stated that the Goularte family has been extremely cooperative in working with the City. He felt the City would have the necessary controls in place as well as a property/business owner who will comply and do their best to meet the needs of the community; addressing any concerns that might be raised.

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Waived** the Reading in Full of the Ordinance No. 1741, New Series.*

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council **Introduced** Ordinance No. 1741, by Title Only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A PLANNED UNIT DEVELOPMENT (PUD) FOR A 2.94-ACRE PARCEL LOCATED AT THE NORTHWEST CORNER OF MAST STREET AND RAILROAD AVENUE TO ALLOW CONCRETE BATCHING PLANTS AS A PERMITTED USE IN THE PUD AND SILOS UP TO 70 FEET IN HEIGHT (APN 817-02-064) (ZA-05-06: CITY OF MORGAN HILL – MAST STREET PUD DISTRICT AMENDMENT)**, by the following roll call vote: **AYES:** Carr, Grzan, Kennedy, Sellers, Tate; **NOES:** None; **ABSTAIN:** None; **ABSENT:** None.*

15. FINDINGS FOR BUILDING PERMIT FEES CHARGED FOR INSTALLATION OF A SOLAR – ELECTRIC PHOTOVOLTAIC ROOF SYSTEM (Continued)

Mayor Kennedy indicated that he neglected to call upon a citizen wishing to address the Council under Consent Calendar Item 15. He opened the floor to public comment.

Robert Kushner said that the building permit fee schedule seems to be used for the installation of a solar system. He did not believe that the two were the same type of permit. He provided the Council with examples of what other cities charge. His vendor informed him that the highest fee that they have seen was \$1,000 for a solar system and felt that the City of Morgan Hill's fees were outrageous for such a system. He stated that a solar system is an expensive product to be installed. He would agree to attend the Utilities & Environment Committee meetings.

No further comments were offered.

24. DEVELOPMENT AGREEMENT AMENDMENT, DAA-04-07: MONTEREY-SOUTH COUNTY HOUSING (ROYAL COURT) – Ordinance No. 1742, New Series

Director of Community Development Molloy Previsich presented the staff report on a request to amend a development agreement to allow for a 10-month extension for the Fiscal Year 2005-06 residential allotments for 54-units, a part of the Royal Court project located between Monterey Road and Del Monte Avenue, north of Wright Avenue. She indicated that the reason for the delay was attributed to the fact the project needed to work through complicated funding issues and resolve grading issues with the Santa Clara Valley District and the City of Morgan Hill. She informed the Council that the Planning Commission unanimously recommends Council approval of the development agreement, recommending further amendments to certain timeframes. She indicated that the applicant was agreeable to all changes requested by the Planning Commission.

Mayor Kennedy opened the public hearing.

Mr. Swiontek, President of the Del Monte Homeowners Association located across the street from this development, informed the Council that the residents are eager to have the South County Housing development as neighbors.

No further comments being offered, the public hearing was closed.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Carr, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1742, New Series.*

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Carr, the City Council **Introduced** Ordinance No. 1742, New Series, by Title Only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1707, NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-04-02: Monterey – South County Housing (Royal Court) (APNs 764-12-008, -009, -018, & -019), by the following roll call vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.***

25. APPLICATION ZA-05-08: AMENDING THE ZONING CODE LOT DEFINITION AND PARKING CODE STANDARD ON TANDEM PARKING – Ordinance No. 1743, New Series

Director of Community Development Molloy Previsich presented the staff report, indicating that this is a staff initiated zoning text amendment. She informed the Council that this item came to staff's attention because of the changes taking place in order to implement the Downtown Plan to call for

higher residential development. She said that it is oftentimes problematic to meet current requirements that lots have frontage on a public street to accommodate higher density development. It is being recommended that this requirement be removed in the R-2, R-3, R-4 and CC-R zoning districts. The second change relates to tandem parking as it is sometimes necessary for attached housing to attain the type of density desired in the downtown and offers other benefits to higher density development. She informed the Council that the Planning Commission reviewed these amendments and voted 4-2 to recommend Council approval. She indicated that a couple of planning commissioners did not believe that the tandem parking should be an opportunity in the R-2 and R-3 zoning district, only in the R-4 and CC-R zoning districts. She stated that staff supports allowing the flexibility for tandem parking in all of the zoning districts. She informed the Council that staff distributed a minor amendment to the ordinance to substitute “circulation aisle” with “major driveway aisles” as the latter term is already included as a term in the zoning ordinance definition section.

Council Member Sellers noted that the CC-R zoning is a timing issue. He noted that applications have been submitted for Measure C recently. He inquired what possible impacts would be associated with the proposed amendment to individuals who have submitted Measure C applications. Would individuals need to pay new fees and go through a new process?

Ms. Molloy Previsich said that applicants were told that staff was pursuing an amendment to the lot definition at a pre application meeting held in September as it was staff’s belief that it was a reasonable amendment and in line with the Council’s intent in the Downtown Plan for residential development. She did not believe that this would create a problem for any of the applicants.

Mayor Pro Tempore Tate noted that a couple of Planning Commissioners did not support tandem parking and that it was his belief, in reading through their minutes, that the Planning Commission did not support the amendment in any of the zoning districts.

Ms. Molloy Previsich indicated that one commissioner seemed to be open to the amendment for the high density R-4 and CC-R, but did not support it in the R-2 and R-3 zoning districts. The Commission expressed concern with tandem parking working at all. It was her belief that the second commissioner may have had the same concern. It was her belief that tandem parking can work.

Mayor Kennedy opened the public hearing.

Scott Schilling indicated that he attended the Planning Commission meeting and that he has been involved in discussions with staff regarding the proposed text amendments and the tandem parking issue. He commended staff, Planning Commission and City Council for considering these significant changes as they would give more flexibility in the higher density zoning to create a higher quality living environment, while at the same time, achieving the density the Council wants to see in these zoning districts. He felt that these amendments would help to produce more for-sale housing in these zoning districts. He stated his support of the changes.

No further comments being offered, the public hearing was closed.

Mayor Pro Tempore Tate said that based on the discussions at the Planning Commission level, you give thought to where the proposed zoning text amendments would be appropriate. He felt that the changes would be appropriate in the R-3 and R-4 zoning district. It may or may not work in the R-2 zoning districts, based on density. However, if authorized, it should be allowed with all R-2 projects.

Mayor Kennedy said that there is a condominium project located on East Dunne Avenue, east of the Hill Road fire station that incorporated tandem parking. He said that he has not heard any problems or complaints associated with tandem parking and felt that it seems to work.

Council Member Sellers said that individuals who purchase for-sale units would make the decision to use tandem parking or use their garages.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Carr, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1743, New Series, as amended.*

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Carr, the City Council **Introduced** Ordinance No. 1743, New Series, by Title Only as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTION 18.04.245 OF THE MORGAN HILL MUNICIPAL CODE, ELIMINATING THE STREET FRONTAGE REQUIREMENT TO THE LOT DEFINITION, AND AMENDING SECTION 18.050.200, ELIMINATING THE RESTRICTION ON TANDEM PARKING FOR REQUIRED PARKING SPACES IN THE R-2, R-3, R-4 AND CC/R ZONING DISTRICTS, as amended, by the following roll call vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.***

26. ZONING AMENDMENT, ZA-05-11: CITY OF MORGAN HILL – ESTABLISHING PROVISIONS FOR DOWNTOWN ADMINISTRATIVE USE PERMITS – Ordinance No. 1744, New Series

Director of Community Development Molloy Previsich presented the staff report, indicating that approximately a year ago, in order to implement the Downtown Plan, some code amendments went into affect that required a conditional use permit for retail uses on ground floors in the downtown area. Since the code changes went into affect, staff has received complaints that some of the existing buildings were designed to accommodate ground floor office uses as they do not have store front windows or other design features that typically would indicate a retail use would be appropriate. She stated that some individuals have indicated that the downtown market for retail use is not sufficiently strong to attract ground floor retail uses to all ground floor spaces. It is being suggested that the City create a process, different from the typical conditional use permit process that costs \$4,600 and takes six weeks to get to a public hearing before the Planning Commission. She said that this process is a disincentive for personal service or office users to consider occupying space in the downtown. She stated that this has created some frustration for owners with downtown space. This was also a concern of the property owner of the Sunsweet PUD. Staff offered several alternatives at that time; one being to create an administrative use

permit process applicable to the downtown. She felt that the administrative process would work in the downtown, at a lesser cost, because the City is not reviewing high impact uses and that CEQA review has been conducted, with most uses being exempt from CEQA. A property owner would be able to come to the City and demonstrate that they have not been able to find a retail tenant or that the building was not designed to accommodate retail uses. The City could grant an administrative use permit upon making the appropriate findings and approve the use permit administratively. She informed the City Council that the Planning Commission, on a 6-1 vote, is recommending Council approval of the zoning text amendment.

Ms. Molloy Previsich informed the Council that subsequently, staff met with members of the Morgan Hill Downtown Association and received additional comments. It was her understanding that the Downtown Association supports moving forward with the adoption of the ordinance. However, they would like to have additional discussions and potentially future ordinance amendments to consider the following: 1) ground floor retail is to be defined to just apply to the immediate downtown area (e.g., Main to Dunne Avenues). 2) Administrative use permits are good for three years. At the end of three years, the City would review to determine if conditions have changed and whether the permit should be renewed or extended. 3) The downtown administrative use permit to be allowed only when the retail vacancy rate exceeds 5%. 4) Buildings in the immediate downtown area not designed for retail use could be excluded entirely. She stated that staff is supportive of further research and discussions with the Downtown Association and the Planning Commission about some of these ideas. However, staff and the Planning Commission recommend the Council move forward with the ordinance before it. Also, that the Council provide direction to staff that it work with the Downtown Association, through the Planning Commission, to consider some of the other ideas of further address the matter of retail uses in the downtown area.

Mayor Kennedy opened the public hearing.

Dan Craig, Executive Director of the Downtown Association, indicated that following the Planning Commission hearing on this item, he had the opportunity to meet with staff. He informed the Council that he met with the property owner located outside the core area as defined by the Downtown Plan to discuss the issue. It appears that a use outside of the core area may not necessarily be appropriate for the ground floor restriction and that it was creating an administrative use permit process that was diluting the intent of the ground floor restriction in the downtown core area desired. He said that it was the intent of the Downtown Plan ground floor restriction to apply to the area bound by Main to Dunne Avenues. Therefore, the property owner located north of Main Avenue should be exempt from the ground floor restrictions. Because of the timing of their intervention in this matter, the Downtown Association supports staff's recommendation to move forward with the ordinance before the Council. However, the Downtown Association would like to go back and readdress some of the provisions identified this evening with the Planning Commission. This would move this applicant forward. He stated that the Downtown Association recommends that should the downtown core area becomes the restricted area and the ordinance is not applicable to the property owner, consideration be given to refunding fees.

Gary Walton concurred with some of the comments expressed by Mr. Craig. He said that it was unfortunate that Mr. Kushner had to go through this process because the Downtown Plan was stopped at Main Avenue, noting that Mr. Kushner was located a distance up the road. He felt the downtown core should be the area that is walkable (Main to Dunne Avenues). However, the downtown area got stretched out with consequences. He noted that there were buildings designed as office buildings. He felt it unfair to place these property owners through the process of requiring retail when the buildings were not designed for retail. He stated his support of the ordinance in order to allow Mr. Kushner to move through the process and get his tenant into the building. Rather than making unilateral decisions, he recommended the Downtown Association be consulted early in the process to receive input. He felt that this needs to be a collaborative effort prior to adoption of policies and/or ordinances as the Downtown Association focuses on the downtown in order to avoid these types of situations.

Dan Ehrler indicated that he received the proposed zoning amendment information and felt that this falls within the Chamber of Commerce's interest in economic development. He stated that he attended the Downtown Association's meeting and asked Chris Bryant, Chair of the Attraction and Retention subcommittee of the Economic Development Committee, to add this item to the regularly scheduled meeting this month. The item was discussed with the Committee recommending, to the Chamber of Commerce's Board, a recommendation to support the proposed zoning amendment. He informed the Council that the Chamber of Commerce Board unanimously recommends support of the zoning amendment and the efforts of the Downtown Association with respect to their request for further consideration. With the passage of the zoning amendment, it would accomplish one thing in terms of economic development; allowing a business to proceed which would help the owner of the property, creates jobs, and assists the economy.

No further comments being offered, the public hearing was closed.

Council Member Sellers said that it was a unique set of circumstances that Mr. Kushner got caught up in. He said that this was a sound policy that evolved from several things. The Council wanted to move north to ensure that retail uses are allowed in first floors. He did not believe that it made sense to cut off in mid property lines. Therefore, the Council extended the area to Central Avenue. He did not believe that this was a haphazard process or something that was not reviewed thoroughly. However, it created an unexpected situation that he hopes will be resolved. He acknowledged that there are a few things that need to be done, but felt that it made sense to proceed with the action this evening and continue to work with the downtown community. He recommended direction be given to have the Downtown Association continue to work closely with staff, as identified, working toward resolution of the outlying issues.

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1744, New Series.*

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council **Introduced** Ordinance No. 1744, New Series, By Title Only as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ADDING ARTICLE IV TO CHAPTER 18.54 (CONDITIONAL AND TEMPORARY***

USE PERMITS) OF TITLE 18 (ZONING) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL, TO ESTABLISH PROVISIONS FOR DOWNTOWN ADMINISTRATIVE USE PERMITS, AND AMENDING SECTION 18.24.030 TO ALLOW FOR ISSUANCE OF SUCH FOR GROUND FLOOR OFFICE AND PERSONAL SERVICE USES LOCATED ALONG MONTEREY ROAD AND THIRD STREET, by the following roll call vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Directed** staff to work with the Downtown Association on their recommended amendments.*

City Council Action

OTHER BUSINESS:

27. REQUEST FOR ENDORSEMENT OF PROPOSITION 77 – REDISTRICTING INITIATIVE CONSTITUTIONAL AMENDMENT

Mayor Kennedy indicated that last week, the Regional Planning and Transportation Committee discussed this item. He noted that Morgan Hill was the foster child for gerrymandering of districts. Consistent with previous actions of the Council in filing a lawsuit at the state level in opposition to the redistricting, the Committee believes it appropriate for the Council to take a position in support of Proposition 77.

Council Member Sellers stated that it is frustrating that this issue has been placed on the ballot as redistricting was something legislators should not have done in the first place. Further, they had an opportunity to rectify the redistricting decision on their own. Although this is somehow a flawed process, it is better than what we have in place at this time. He noted that as currently drawn Morgan Hill, Gilroy and San Martin are in three different congressional districts. He indicated that the Committee recommends Council support of Proposition 77.

Council Member Carr stated that while he does not agree with all of Proposition 77 as a way to rectify the situation, he felt that something needs to be done. He said that the City tried to be a significant voice in the redistricting process as it was taking place, and after the redistricting took place, by filing suit. He concurred that something needs to be done, and felt the City needs to stand up for its citizens and make sure that they have a voice as he does not believe that this is the case at the state or federal level. He stated his support of the Council taking action this evening.

Action: *On a motion by Mayor Kennedy and seconded by Council Member Sellers, the City Council unanimously (5-0) **Took** a position in support of Proposition 77.*

28. CONSIDER PROPOSED TEXT AMENDMENTS TO TITLE 2, ADMINISTRATION AND PERSONNEL, OF THE MORGAN HILL MUNICIPAL CODE

Council Services & Records Manager Torrez indicated that prior Council actions necessitate amendments to the Municipal Code as they relate to boards and commissions. She walked the Council through proposed amendments to Title 2, Administration and Personnel, of the Municipal Code.

Chapter 2.56 – Architectural & Site Review Board (ARB)

Regarding the question relating to consideration of appointments of individuals to the ARB who work in Morgan Hill, but who do not reside within the city limits or sphere of influence, the following comments were offered:

Mayor Pro Tempore Tate stated that he would willing to consider the appointment of one individual who works in Morgan Hill, but who do not reside in Morgan Hill, to the ARB.

Council Member Sellers expressed concern the Council may appoint a non Morgan Hill resident when there are residents of Morgan Hill to be considered. He recommended that a qualifying statement be included that stipulates that priority in appointment is to be given to Morgan Hill residents.

Regarding the question about conflicts of interest, Interim City Attorney Siegel indicated that a non Morgan Hill resident would have a greater conflict of interest than a Morgan Hill resident. He stated that one of the problems with the ARB, in general, is that a professional, regardless of residency, would be conducting business in the city limits.

Council Member Grzan stated that he has an issue with an employer serving on a board or commission being biased. He felt that the primary reason for serving on a board or commission is driven by financial interests.

Interim City Attorney Siegel did not believe that there is any more or less conflict of interest regarding where an individual resides. The conflict would arise with how much business the individual performs in the City.

Council Member Sellers said that should an ARB member be an architect and designed a building that is coming before the Board, they would not weigh in on the decision making process.

Mayor Kennedy noted that the ARB is a technical board and that the City is looking for individuals who have a particular expertise. He would support taking advantage of an individual's expertise if they work in Morgan Hill. Therefore, he would support the appointment of professionals with the expertise desired to serve on the Board; limiting the number of non residents to be appointed.

Council Member Sellers felt that there could be a potential for an overlap in the reviewing authority. He noted that the indoor recreation center (IRC) was designed to be a multi generational facility. The Library, Culture & Arts Commission may have cultural items to review that could become programming issues at the IRC. The Parks & Recreation Commission would also be providing input on this facility.

He felt that it would be important for the Commissions to know their purview limitations on various issues as some of the processes will need to go through and be reviewed by different commissions.

Terms of Office

Council Member Grzan stated his support of extending appointment terms to four-years in order to afford consistency on Boards and Commissions.

Mayor Kennedy stated his support of extending the two-year term to a four-year term as it affords stability and less disruption in going through the recruitment and interview process/efforts.

Recruitment Efforts

Regarding the timing of recruitment efforts, Mayor Kennedy recommended that the recruitment/interview process be staggered, slightly, so that the Council is not overwhelmed with holding all interviews at same time. The Council would be able to take advantage of appointing an individual to another board or commission if not appointed to the commission of choice.

Mayor Pro Tempore Tate expressed concern that this process would imply a prioritization of Council commissions. He felt that all commissions were important, equal and have different emphases. He indicated that it was his belief that individuals should apply to serve on a board or commission they qualify for. He did not see many instances where the Council would want to appoint to a different commission than what an individual applied for.

Mayor Kennedy indicated that he would like to capture an individual for another committee should they not be appointed to the commission of choice.

Mayor Pro Tempore Tate noted that there have been instances where individuals applied for multiple commissions because they do not understand their fit. He did not see anything wrong with this.

Council Member Carr supported recruitment efforts in a close enough timeframe. He did not believe it would make a statement about a hierarchy in the commissions. Staggering the recruitment/appointment process would provide enough time for an individual to apply for an alternate board or commission, should an individual not be selected to the commission of choice. He noted that at one time, the Council did not have enough applicants to appoint to the Planning Commission and the Council appointed an ARB applicant to the Planning Commission.

Mayor Pro Tempore Tate noted that prior to this year's interview process the Council had a short discussion regarding the qualifications and characteristics it is looking for in its board and commission members. He felt the Council needs to continue building on this process.

Mayor Kennedy felt it made sense to continue identifying the qualifications and characteristics being sought in a board or commissioner, preceding the interviews instead of the annual retreat.

Council Member Carr felt that it would be helpful for the Council to talk about expectations of board and commission members before the evening of the interviews. This discussion should take place before the recruitment process begins. The Council may decide to change the questionnaires in certain ways to assist in identifying expectations of the Council.

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Supported** the Proposed Text Amendments to Title 2, Chapters 2.22 (Master Provisions for Boards & Commissions), 2.28 (Health Commission), 2.32 (Parks & Recreation Commission), 2.56 (Architectural & Site Review Board), 2.64 (Mobile Home Rent Commission), and 2.68 (Library, Culture & Arts Commission); and Addition of Chapter 2.70 (Senior Advisory Commission) to the Morgan Hill Municipal Code as follows:*

- *Amend sections relating to the Library Commission to reflect its current title of “Library, Culture & Arts Commission.”*
- *Disband/Eliminate Section 2.28 “Health Commission.”*
- *Delete reference of the Parks & Recreation Commission addressing “cultural facilities,” including holding hearings and reviewing capital expenditures as they relate to cultural resources. This duty will be shifted to the Library, Culture & Arts Commission.*
- *Section 2.56, Architectural & Site Review Board, to be amended to allow any combination of professionals in order to provide flexibility in filling vacancies based on expertise. Further, the Council to consider appointment of one individual who works in Morgan Hill, but who does not reside within the City limits; acknowledging the difficulty in appointing to this Board. However, emphasis is to be given to residents of Morgan Hill as well as limiting the number of non resident appointments.*
- *Section 2.68, Library, Culture & Arts Commission, membership reduced to 7. At least 5 members to be Morgan Hill residents, 2 members may be appointed who reside in the unincorporated area of Santa Clara County and/or otherwise within the City’s sphere of influence.*
- *The addition of Section 2.70 entitled “Senior Advisory Commission,” supporting the powers and duties, as identified. It was acknowledged that there may be projects that will necessitate review by more than one of the commissions.*
- *Agreed to consider four-year term appointments. Staff to work with the City Attorney’s office to stagger terms.*
- *Recruitment/Appointment process to be staggered slightly.*

- *Powers and duties to be reviewed by the expanded Library, Culture & Arts Commission.*
- *Council to discuss expectations of boards and commission before the City Clerk commences the recruitment process as part of the Council's annual retreat.*
- *Staff to work with the City Attorney's office to group like items to be included in the Masters Provision of the Municipal Code (consistency).*

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Directed staff** to request comments and input from the affected board and commission members.*

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Directed staff** to Return with a draft Ordinance, Incorporating Amendments to the Municipal Code as it Relates to City Council Appointed Boards and Commissions.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 9:18 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY



**REDEVELOPMENT AGENCY STAFF
REPORT MEETING DATE: November 2, 2005**

Agenda Item #13

Prepared By:

BAHS Director

Submitted By:

Executive Director

**REDEVELOPMENT PLAN AMENDMENT FEASIBILITY
STUDY**

RECOMMENDED ACTION(S): Authorize the Executive Director to issue Request for Proposals (RFP's) for firms to prepare a Redevelopment Plan Amendment and the environmental assessment necessary for the Plan Amendment.

EXECUTIVE SUMMARY:

One of the Council's adopted goals for 2005 is to receive a report by November 2005 "on options for amending the redevelopment plan including consideration of the 'tax increment cap' and implementation strategies for addressing remaining blight." In April 2005, the Agency authorized Richards, Watson & Gershon (RWG), special Agency counsel, to engage the services of the Rosenow Spevacek Group Inc. (RSG) to evaluate the feasibility of amending the current Redevelopment Plan (Plan). The attached feasibility study addresses the following:

- Does the area have sufficient remaining blight and projects needed to address blight to warrant the tax increment increases?
- Should the Agency consider adding territory to the Project Area?
- Should the Plan be amended to reinstate the authority to issue bonds?
- Should eminent domain authority be added on selected property?
- How would the various possible amendments affect the need to form a Project Area Committee?
- What would a redevelopment plan amendment effort cost?
- What will the amendment process entail and what will be the timeline of activities to amend the Plan?

The Study concludes that sufficient blight remains in the Project Area to pursue a Plan Amendment and that the Agency has more projects to complete to alleviate blight in the Project Area. At this time, the Agency does not need to determine which specific amendments to pursue, projects to build, tax increment cap, or other related issues. However, we recommend that the Agency not consider the authorization of the use of eminent domain for residential properties and, thus, eliminate any requirement for a Project Area Committee (PAC). This would limit the scope of work for consultants and would eliminate the cost for establishing and staffing a PAC. Given the Study's findings and the fact that the Agency will reach its fiscal cap in FY07-08 (i.e., the Agency will not be able to collect tax increment beyond FY07-08), we recommend that the Agency begin the process to amend the Plan. The first step is to retain firms to assist in the preparation of the Plan Amendment and environmental assessment. We anticipate it will take about 60-90 days for staff to issue RFP's for services, receive and evaluate responses, and recommend the selected firms to the Agency for approval. At that time, staff will also provide a more detailed schedule including the process for Agency direction on the various amendments and how we will solicit community input on the Plan Amendment.

FISCAL IMPACT: The BAHS FY04-05 budget allocated \$250,000 for consultants and legal services needed for a Plan Amendment (funds 317 and 327).



Additions to the Project Area

- City Limit
- Urban Services Area
- Redevelopment Area
- Additions to Project Area

OCTOBER 26, 2005

